



# Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | [info.pca@state.mn.us](mailto:info.pca@state.mn.us) | Equal Opportunity Employer

November 22, 2016

Mr. Robert A. Kaplan  
Acting Regional Administrator  
USEPA REGION 5  
77 West Jackson Boulevard  
Mail Code: R-19J  
Chicago, IL 60604-3507

RE: Minnesota's State Implementation Plan Requirements Relating to Startup, Shutdown, and  
Malfunction Operations

Dear Mr. Kaplan:

The Minnesota Pollution Control Agency (MPCA) hereby submits to the U.S. Environmental Protection Agency (EPA) a request for revision of Minnesota's State Implementation Plan (SIP).

With this letter, the MPCA formally responds to EPA's May 22, 2015, "SIP call," which required Minnesota to remove from its SIP Minn. R. § 7011.1415, pertaining to standards of performance for petroleum refineries. Minn. R. § 7011.1415 provided automatic exemptions for excess emissions resulting from flared gas at petroleum refineries when such flares are caused by startup, shutdown, or malfunction (SSM) operations. The rule provision conflicted with Clean Air Act requirements that enforceable emission limitations contained in a SIP be continuous.

The enclosed SIP revision requests removal of Minn. R. § 7011.1415 from the Minnesota SIP, and includes the portion of the Omnibus Air Rule Amendments identifying the repeal of Minn. R. § 7011.1415 from the Minnesota Administrative Rules. The Omnibus Air Rule Amendments were adopted by the MPCA on October 25, 2016, and are currently awaiting publication of the Notice of Adoption in the *Minnesota State Register*.

By my signature below, I am authorizing electronic submittal of this SIP revision via EPA's Central Data Exchange electronic SIP submittal platform. Please contact Mary Jean Fenske of my staff at 651-757-2354 or [maryjean.fenske@state.mn](mailto:maryjean.fenske@state.mn) if you have any questions regarding Minnesota's SIP.

Sincerely,

A handwritten signature in black ink, appearing to read "John Linc Stine", is written over a horizontal line.

John Linc Stine  
Commissioner

JLS/MK:cmp

Enclosures

## **Infrastructure State Implementation Plan Requirements Relating to Startup, Shutdown, and Malfunction Operations**

This State Implementation Plan (SIP) revision addresses Minnesota's responsibilities under section 110(a)(2)(A) of the Clean Air Act (CAA), which requires that SIPs contain enforceable emission limitations as may be necessary or appropriate to meet applicable requirements of the CAA. In accordance with the definition of "emission limitations" in CAA section 302(k), such limitations must be continuous. This SIP revision responds to a "SIP call" issued May 22, 2015 by the U.S. Environmental Protection Agency (EPA), undertaken in response to a petition for rulemaking filed by the Sierra Club concerning how SIPs treat excess emissions during periods of startup, shutdown, or malfunction (SSM). EPA's SIP call requires affected states to submit corrective SIP revisions by November 22, 2016.

Minnesota Rule (Minn. R.) 7011.1415, part of the standards of performance for petroleum refineries incorporated into Minnesota's SIP, provides automatic exemptions for excess emission resulting from flared gas at petroleum refineries when such flares are caused by SSM. EPA's SIP call found that Minn. R. 7011.1415 is substantially inadequate to meet Section 110(a)(2)(A) requirements, because the exemption provides emissions limitations that are not continuous. Consequently, the Minnesota Pollution Control Agency (MPCA) adopted a rule action repealing Minn. R. 7011.1415 on October 25, 2016, and is currently preparing publication of the Notice of Adoption in the Minnesota *State Register*. The repeal will be effective five working days after publication. The MPCA therefore requests that EPA remove from Minnesota's SIP Minn. R. 7011.1415, the repeal of which is expected to be effective in December 2016.

### **Background**

On June 30, 2011, the Sierra Club filed a petition requesting EPA find that SIP provisions allowing for excess emissions during SSM are substantially inadequate to attain or maintain the National Ambient Air Quality Standards (NAAQS) and otherwise comply with the CAA, and require states to revise SIPs to correct the violating SSM provisions. Sierra Club identified Minn. R. 7011.1415, which states, "The combustion of process upset gas in a flare, or the combustion in a flare of process gas or fuel gas which is released to the flare as a result of relief valve leakage, is exempt from the standards of performance set forth in these parts," as in conflict with the CAA.

On May 22, 2015, the EPA issued a final action (published June 12, 2015, 80 FR 33839) determining that SIP provisions in 36 states, including Minnesota, were substantially inadequate to meet CAA requirements and established a "SIP call" for each of those 36 states. EPA granted Sierra Club's petition with respect to Minn. R. 7011.1415, agreeing that the provision was substantially inadequate to meet CAA requirements. EPA's action referenced rationale provided in a February 2013 proposal (78 FR 12460), which stated:

In accordance with the requirements of CAA section 110(a)(2)(A), SIPs must contain emission limitations and, in accordance with the definition of "emission limitations" in CAA section 302(k), such emission limitations must be continuous. Thus, any excess emissions above the level of the applicable emission limitation must be considered violations of such limitations, whether or not the state elects to exercise its enforcement discretion. SIP provisions that create exemptions such that the excess emissions during startup, shutdown, or malfunction are not violations are inconsistent with the fundamental requirements of the CAA with respect to emission limitations in SIPs.

Minn. R. 7011.1415 explicitly exempts “process upset gas,” which is defined as “any gas generated by a petroleum refinery process unit as a result of start-up, shutdown, upset, or malfunction,” (Minn. R. 7011.1400) from the standards of performance for petroleum refineries. Therefore, any exceedances of the standards during those periods would not be considered as violations under the SIP, a provision that could interfere with the enforcement abilities of EPA or citizens. EPA’s February 2013 proposal further states, “By having SIP provisions that define what would otherwise be violations of the applicable emission limitations as non-violations, the state has effectively negated the ability of the EPA or the public to enforce against those violations. ”

Section 110(a)(2)(A) of the CAA requires that SIPs include enforceable emissions limits to ensure compliance with the NAAQS and other CAA elements; Section 302(k) requires that these limits be continuous. In other words, any excess emissions above the level of the applicable emission limitation must be considered a violation of that limitation. Minnesota’s SIP currently contains a provision (Minn. R. 7011.1415) that would allow for exceedances of these continuous limits for flared gas at petroleum refineries. The SIP effectively defines emissions that would violate CAA requirements as non-violating, preventing enforcement of the CAA by EPA and the public. It is this conflict that renders the provision “substantially inadequate” by EPA.

#### Proposed corrective SIP action

To remedy the inadequacy identified by EPA in its May 22, 2015 final action/SIP call, the MPCA is finalizing repeal of Minn. R. 7011.1415, eliminating the exemption from performance standards for flares burning process upset gas when the flares are caused by SSM.

When effective, this rule repeal will ensure that Minnesota’s SIP fully complies with section 110(a)(2)(A) of the CAA, by providing for continuous, enforceable emissions limitations and other controls as needed to comply with the NAAQS and meet all other applicable requirements of the CAA. The MPCA adopted the order that repeals Minn. R. 7011.1415 on October 25, 2016, and is currently preparing publication of the Notice of Adoption in the Minnesota *State Register*. The repeal will be effective five working days after publication. The MPCA therefore requests that EPA remove from Minnesota’s SIP Minn. R. 7011.1415, the repeal of which is expected to be effective in December 2016.

## **Appendix 1: Rule for repeal from Minnesota's State Implementation Plan**

This appendix contains the final "Order Adopting Rules," signed by MPCA Commissioner John Linc Stine on October 25, 2016, as well as final rule language indicating repeal of Minn. R. 7011.1415 (see page 108 of attached rule). The rule will be effective five working days after publication in the Minnesota *State Register*, expected in December 2016.

1.1 **Pollution Control Agency**

1.2 **Adopted Permanent Rules Relating to Air Quality**

1.3 **7002.0019 AIR QUALITY PERMIT APPLICATION FEES AND ADDITIONAL**  
 1.4 **FEES.**

1.5 [For text of subp 1, see M.R.]

1.6 Subp. 2. **Additional points.** The points assessed for activities designated in this  
 1.7 subpart shall be multiplied by the dollar per point value as determined in part 7002.0018  
 1.8 to calculate the additional fee.

1.9	Activity	Points
1.10	A. Modeling review	15
1.11	The points for modeling review shall not be assessed for screening	
1.12	modeling or CAPS modeling.	
1.13	B. Best available control technology (BACT) review	15
1.14	BACT points shall be applied for each prevention of significant	
1.15	deterioration (PSD) pollutant analyzed.	
1.16	C. Lowest achievable emission rate (LAER) review	15
1.17	LAER points shall be applied for each nonattainment new source review	
1.18	(NSR) pollutant analyzed.	
1.19	D. Clean Air Act, section 110(a)(2)(D)(i)(I) review	10
1.20	Points shall be applied for a review of any standard or other requirement	
1.21	related to interstate transport of pollutants established under section	
1.22	110(a)(2)(D)(i)(I).	
1.23	E. Part 75 continuous emission monitoring analysis	10
1.24	F. New source performance standard (NSPS) review	10
1.25	Points shall be applied for each applicable standard but do not apply to	
1.26	registration, capped, or general permit applications.	
1.27	G. National emission standards for hazardous air pollutants (NESHAP) review	10
1.28	Points shall be applied for each applicable standard but do not apply to	
1.29	registration, capped, or general permit applications.	

2.1	H.	Case-by-case maximum achievable control technology (MACT) review	20
2.2		Points shall be applied for each applicable source category reviewed.	
2.3	I.	Netting	10
2.4		Points shall be applied for each prevention of significant deterioration	
2.5		(PSD) pollutant for which a netting analysis is performed.	
2.6	J.	Limit to remain below programmatic regulatory threshold	10
2.7		Points shall be applied, if applicable, to each of the following regulatory	
2.8		programs: Part 70, NESHAP, EAW, AERA, NSPS, PSD, and nonattainment	
2.9		NSR.	
2.10	K.	Plantwide applicability limit (PAL)	20
2.11		Points shall be applied for each prevention of significant deterioration	
2.12		(PSD) pollutant for which a plantwide applicability limit is established.	
2.13	L.	Air emission risk analysis (AERA) review	15
2.14	M.	Variance request under part 7000.7000	35
2.15	N.	Confidentiality request under part 7000.1300	2
2.16	O.	Environmental assessment worksheet (EAW) review	
2.17		Points shall be assigned as follows:	
2.18		Part 4410.4300, subparts 18, item A; and 29	15
2.19		Part 4410.4300, subparts 8, items A and B; 10, items A to C; 16, items	35
2.20		A and D; 17, items A to C and E to G; and 18, items B and C	
2.21		Part 4410.4300, subparts 4; 5, items A and B; 13; 15; 16, items B and	70
2.22		C; and 17, item D	
2.23		A fee for EAW review shall be charged only if the project falls into	
2.24		a mandatory category specified in part 4410.4300, the agency is the	
2.25		designated responsible governmental unit (RGU), and an air or water permit	
2.26		is required for the project. If a facility requires both an air and water permit,	
2.27		the points for an EAW review shall be charged only once and multiplied by	
2.28		the lower of the dollar per point value for an air or water permit.	

## 2.29 7005.0100 DEFINITIONS.

2.30 [For text of subps 1 to 4e, see M.R.]

3.1 ~~Subp. 4f. **Condensable particulate matter.** "Condensable particulate matter"~~  
3.2 ~~means material that is in vapor phase at stack conditions and upon discharge immediately~~  
3.3 ~~condenses in the ambient air to form solid or liquid particulate.~~

3.4 Subp. 4g. **Conditionally exempt stationary source.** "Conditionally exempt  
3.5 stationary source" means a stationary source listed in parts 7008.2100 to 7008.2250 that  
3.6 complies with chapter 7008 and all applicable requirements as defined in part 7007.0100,  
3.7 subpart ~~6b~~ 7, and is not part of another stationary source.

3.8 Subp. 4h. **Conditionally insignificant activity.** "Conditionally insignificant activity"  
3.9 means any emissions unit, emissions units, or activity listed in ~~part~~ parts 7008.4100 to  
3.10 7008.4110 that complies with chapter 7008 and all applicable requirements as defined  
3.11 in part 7007.0100, subpart ~~6b~~ 7.

3.12 [For text of subps 5 to 11d, see M.R.]

3.13 Subp. 11e. **Filterable particulate matter.** "Filterable particulate matter" means  
3.14 material collected up to and on the filter media of the sample train during a performance  
3.15 test for particulate matter.

3.16 Subp. 12. [Repealed by amendment, 8 SR 2275]

3.17 Subp. 12a. **Inorganic condensable particulate matter.** "Inorganic condensable  
3.18 particulate matter" means inorganic material collected and measured by the sample train  
3.19 during a performance test for particulate matter.

3.20 [For text of subps 13 to 29, see M.R.]

3.21 Subp. 29a. **Organic condensable particulate matter.** "Organic condensable  
3.22 particulate matter" means organic material collected and measured by the sample train  
3.23 during a performance test for particulate matter.

4.1 Subp. 30. **Owner or operator.** "Owner" or "operator" means a person who owns,  
4.2 leases, operates, controls, or supervises, to any degree, an emissions unit, emission  
4.3 facility, or stationary source.

4.4 [For text of subps 30a to 44, see M.R.]

4.5 Subp. 45. **Volatile organic compound or VOC.** "Volatile organic compound " or  
4.6 "VOC" means any organic compound which participates in atmospheric photochemical  
4.7 reactions. This includes any organic compound other than the following compounds:

4.8 [For text of items A to GG, see M.R.]

4.9 HH. 1,1,1,2,3-pentafluoropropane (HFC-245eb);

4.10 II. 1,1,1,3,3-pentafluoropropane (HFC-245fa);

4.11 [For text of items JJ to NN, see M.R.]

4.12 OO. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ( $C_4F_9OCH_3$  or HFE-7100);

4.13 PP. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane  
4.14  $((CF_3)_2CFCF_2OCH_3)$ ;

4.15 QQ. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ( $C_4F_9OC_2H_5$  or HFE-7200);

4.16 RR. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane  
4.17  $((CF_3)_2CFCF_2OC_2H_5)$ ;

4.18 [For text of item SS, see M.R.]

4.19 TT. 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane ( $n-C_3F_7OCH_3$ , HFE-7000);

4.20 UU. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane  
4.21 (HFE-7500);

4.22 VV. 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);

4.23 WW. methyl formate ( $HCOOCH_3$ );



5.1 XX. 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane  
5.2 (HFE-7300);

5.3 YY. propylene carbonate;

5.4 ZZ. dimethyl carbonate;

5.5 AAA. trans-1,3,3,3-tetrafluoropropene;

5.6 BBB.  $\text{HCF}_2\text{OCF}_2\text{H}$  (HFE-134);

5.7 CCC.  $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{H}$  (HFE-236cal2);

5.8 DDD.  $\text{HCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$  (HFE-338pcc13);

5.9 EEE.  $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$  (H-Galden 1040x or H-Galden ZT 130  
5.10 (or 150 or 180));

5.11 FFF. trans 1-chloro-3,3,3-trifluoroprop-1-ene;

5.12 GGG. 2,3,3,3-tetrafluoropropene;

5.13 HHH. 2-amino-2-methyl-1-propanol;

5.14 III. any other compound listed in table 1, as amended, of the United States  
5.15 Environmental Protection Agency's Recommended Policy on Control of Volatile Organic  
5.16 Compounds, Federal Register, volume 42, page 35314, July 8, 1977; or

5.17 JJJ. any other compound determined by the United States Environmental  
5.18 Protection Agency to be negligibly photochemically reactive, upon publication of the  
5.19 determination in the Federal Register.

5.20 **7007.0100 DEFINITIONS.**

5.21 [For text of subps 1 to 6, see M.R.]

5.22 Subp. 6a. **Alternative operating scenario.** "Alternative operating scenario" means a  
5.23 scenario authorized in a part 70 permit that involves a change at the part 70 source for a

6.1 particular emissions unit and that either results in the unit being subject to one or more  
6.2 applicable requirements that differ from those applicable to the emissions unit prior to  
6.3 implementation of the change or renders inapplicable one or more requirements previously  
6.4 applicable to the emissions unit prior to implementation of the change.

6.5 Subp. 6b. **Approved replicable methodology.** "Approved replicable methodology"  
6.6 means part 70 permit terms that:

6.7 A. specify a protocol that is consistent with and implements an applicable  
6.8 requirement, or requirement of this chapter, such that the protocol is based on sound  
6.9 scientific or mathematical principles and provides reproducible results using the same  
6.10 inputs; and

6.11 B. require the results of the protocol to be recorded and used for assuring  
6.12 compliance with the applicable requirement, any other applicable requirement implicated  
6.13 by implementation of the approved replicable methodology, or requirement of this chapter,  
6.14 including when an approved replicable methodology is used for determining applicability  
6.15 of a specific requirement to a particular change.

6.16 Subp. 7. **Applicable requirement.** "Applicable requirement" means all the  
6.17 following as they apply to emissions units in a stationary source (including requirements  
6.18 that have been promulgated or approved by the EPA or the commissioner through  
6.19 rulemaking at the time of issuance but have future effective compliance dates):

6.20 [For text of items A to V, see M.R.]

6.21 W. any standard or other requirement established under section  
6.22 110(a)(2)(D)(i)(I) of the Clean Air Act that regulates interstate transport of pollutants.

6.23 [For text of subps 7a to 28, see M.R.]

6.24 **7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT.**

6.25 [For text of subps 1 to 3, see M.R.]

7.1 Subp. 4. **PTE threshold required state permit.** Owners and operators of a  
7.2 stationary source must obtain a permit under this part if the source has the potential to  
7.3 emit any pollutant listed below at a rate equal to or greater than the following amounts, in  
7.4 tons per year:

7.5	Pollutant	Threshold
7.6	Lead	0.5 tons per year
7.7	SO <sub>2</sub>	50.0 tons per year
7.8	PM-10	25.0 tons per year
7.9	VOCs	100.0 tons per year

7.10 [For text of subps 5 to 8, see M.R.]

7.11 **7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.**

7.12 Subpart 1. **No permit required.** The owners and operators of the following  
7.13 stationary sources are not required to obtain a permit under parts 7007.0100 to 7007.1850:

7.14 [For text of items A to C, see M.R.]

7.15 D. any stationary source with only emissions units listed as that:

7.16 (1) are listed as insignificant activities in part 7007.1300, subparts 2 and 3;

7.17 (2) are conditionally insignificant activities under chapter 7008; or

7.18 (3) qualify under both subitems (1) and (2).

7.19 The owner or operator of a stationary source that has conditionally insignificant  
7.20 activities must comply with parts 7008.4000 to 7008.4110 to qualify for the permit  
7.21 exemption under this part. The owner or operator must maintain records that demonstrate  
7.22 that a permit is not required. These records ~~shall~~ must contain a list of all emissions units  
7.23 and the Minnesota Rules citation that defines those emissions units as an insignificant  
7.24 activity or conditionally insignificant activity. The records ~~shall~~ must be permanently kept

at the stationary source or a central office and be readily available for examination and copying by the commissioner or a representative of the commissioner;

[For text of items E and F, see M.R.]

[For text of subp 2, see M.R.]

**7007.0350 EXISTING SOURCE APPLICATION DEADLINES AND SOURCE OPERATION DURING TRANSITION.**

Subpart 1. **Transition applications under this part; deadline based on SIC code.** Initial permit applications under parts 7007.0100 to 7007.1850 for an emission unit, emission facility, or stationary source in operation on October 18, 1993, shall be considered timely if they meet the requirements of this part.

[For text of items A and B, see M.R.]

C. The owners and operators of a stationary source must comply with the applicable deadline in this part, even though the stationary source may be operating under a permit issued by the agency under parts 7001.1200 to 7001.1220 (the permit rules in effect before October 18, 1993), and the permit is not due to expire until after the applicable deadline in this part. If a stationary source is operating under a permit issued by the agency under parts 7001.1200 to 7001.1220, and the permit expires after October 18, 1993, but before the applicable deadline, the owners and operators need not reapply before expiration of the permit, but shall comply with the applicable deadline in this part.

[For text of subps 2 to 5, see M.R.]

**7007.0500 CONTENT OF PERMIT APPLICATION.**

[For text of subp 1, see M.R.]

Subp. 2. **Information included.** Applicants shall submit the following information as required by the standard application form:

A. Information identifying the stationary source and its owners and operators:

- 9.1 (1) facility name and address;
- 9.2 (2) name, address, telephone number, and ownership interest of all owners  
9.3 of the stationary source;
- 9.4 (3) name, address, telephone number, and ownership interest of all owners  
9.5 of the real property on which the facility is located;
- 9.6 (4) name, address, and telephone number of all stationary source operators;
- 9.7 (5) name and contact telephone number of the facility site manager or  
9.8 primary facility contact; and
- 9.9 (6) name, address, and telephone number of the person preparing the  
9.10 application if different from the facility site manager or primary facility contact.
- 9.11 B. A description of the stationary source's processes and products (by Standard  
9.12 Industrial Classification Code or SIC Code) including any associated with each alternative  
9.13 operating scenario identified by the stationary source.
- 9.14 C. The following emissions-related information:
- 9.15 [For text of subitem (1), see M.R.]
- 9.16 (2) The application need not include the information required by this  
9.17 part for any activity listed on the insignificant activities list in part 7007.1300 or for  
9.18 conditionally insignificant activities, except as provided in this subitem. The application  
9.19 shall include a list identifying any activity at the stationary source described in subparts  
9.20 3 and 4 of the insignificant activities list and conditionally insignificant activities. If  
9.21 requested by the agency, the permittee shall provide a calculation of emissions from any  
9.22 activity described in subparts 2, 3, and 4 of the insignificant activities list and conditionally  
9.23 insignificant activities. The agency shall request such a calculation if it finds that the  
9.24 emissions from those activities, in addition to other emissions from the stationary source,

10.1 could make the stationary source subject to different applicable requirements under parts  
10.2 7007.0100 to 7007.1850.

10.3 [For text of subitem (3), see M.R.]

10.4 (4) The permit application shall specify the potential emissions, as  
10.5 defined in part 7005.0100, subpart 35a, in tons per year from the stationary source as  
10.6 a whole. These potential emissions shall be specified for each regulated air pollutant  
10.7 and each hazardous air pollutant that is not yet a regulated air pollutant, as defined in  
10.8 part 7007.0100, subparts 12a and 19, except that pollutants which are regulated solely  
10.9 under section 112(r) of the act need not be included and pollutants regulated solely under  
10.10 section 602 of the act need not be included. In addition, for each emissions unit subject  
10.11 to an applicable requirement, the permit application shall specify, in tons per year, the  
10.12 potential emissions of the same pollutants referenced in the previous sentence. If the  
10.13 applicable requirement contains a standard reference test method which is to be used to  
10.14 establish compliance, the permit application shall specify the potential emissions in the  
10.15 same units as are used in the test method.

10.16 [For text of subitems (5) to (10), see M.R.]

10.17 (11) A permit application for an amendment must include all calculations  
10.18 of emissions changes required under part 7007.1200.

10.19 (12) A permit application must explain the means by which the emissions  
10.20 information in subitems (1) to (11) is gathered, and provide the calculations on which  
10.21 they are based.

10.22 [For text of items D to J, see M.R.]

10.23 K. For part 70 permit applications only, a compliance plan that contains the  
10.24 following:

10.25 [For text of subitems (1) to (3), see M.R.]

11.1 (4) For applicable requirements associated with a proposed alternative  
11.2 operating scenario, a statement that the source will meet the requirements upon  
11.3 implementation of the alternative operating scenario. If a proposed alternative operating  
11.4 scenario would implicate an applicable requirement that will become effective during the  
11.5 permit term, a statement that the source will meet the requirement on a timely basis.

11.6 (5) For applicable requirements for which the stationary source is not  
11.7 in compliance at the time of application submittal, including applicable requirements  
11.8 associated with a proposed alternative operating scenario, a proposed schedule of  
11.9 compliance. The schedule must include a date specific schedule of remedial measures,  
11.10 including an enforceable sequence of actions with milestones, leading to compliance in  
11.11 the shortest reasonable period of time. The proposed schedule of compliance must begin  
11.12 at the time of permit application, but the applicant may project its compliance status at the  
11.13 time the permit is expected to be issued. This compliance schedule must resemble and be  
11.14 at least as stringent as that contained in any judicial consent decree, stipulation agreement,  
11.15 or administrative order to which the stationary source is subject. The compliance schedule  
11.16 must be supplemental to, and must not sanction noncompliance with, the applicable  
11.17 requirements on which it is based.

11.18 [For text of items L to N, see M.R.]

11.19 Subp. 3. **Application certification.** A responsible official, as defined in part  
11.20 7007.0100, subpart 21, shall must sign and certify any application, ~~notice~~, report, or  
11.21 compliance certification submitted pursuant to parts 7007.0100 to 7007.1850 or notice  
11.22 submitted pursuant to part 7007.0800, subpart 10, item B; 7007.1110, subpart 10, 11, or  
11.23 15a; 7007.1150, item C; 7007.1250, subpart 4; or 7007.1350, subpart 2, with regard to  
11.24 truth, accuracy, and completeness. This certification and any other certification required  
11.25 by parts 7007.0100 to 7007.1850 shall must state that, based on information and belief  
11.26 formed after reasonable inquiry, the statements and information in the document are true,

12.1 accurate, and complete. This subpart ~~shall~~ must be complied with by both the owner and  
12.2 the operator of the stationary source if they are not the same.

12.3 [For text of subps 4 and 5, see M.R.]

12.4 **7007.0502 MERCURY EMISSIONS REDUCTION PLANS.**

12.5 [For text of subp 1, see M.R.]

12.6 Subp. 2. **Applicability.** The owners or operators of an existing mercury emission  
12.7 source must comply with this part. For the purposes of this part, "existing mercury  
12.8 emission source" means that the owners or operators have been issued an air emission  
12.9 permit by the agency as of September 29, 2014. For initial applicability, owners or  
12.10 operators must calculate emissions following methods in part 7019.3030 for the calendar  
12.11 year 2014. If, after 2014, the actual mercury emissions from the existing mercury emission  
12.12 source are below the threshold of three pounds per year or more for three consecutive  
12.13 years, then the stationary source is no longer considered a mercury emission source and is  
12.14 not subject to this part. The owner or operator must:

12.15 A. retain records of the actual mercury emissions for the qualifying three years  
12.16 on site for five years from the date the determination was made;

12.17 B. make the records available for inspection and submit the records, within  
12.18 specified timelines, upon request of the commissioner; and

12.19 C. immediately resume compliance with applicable requirements for mercury  
12.20 emission sources if a physical or operational change causes the stationary source to again  
12.21 become a mercury emission source. Owners or operators must resubmit a mercury  
12.22 emissions reduction plan under subpart 3 within 12 months of again becoming a mercury  
12.23 emission source.

12.24 [For text of subps 3 to 9, see M.R.]



13.1 **7007.0600 COMPLETE APPLICATION AND SUPPLEMENTAL INFORMATION**  
13.2 **REQUIREMENTS.**

13.3 Subpart 1. **Complete application.** To be deemed complete, an application must  
13.4 provide all information required by part 7007.0500, except that an application for a  
13.5 permit amendment under parts 7007.1400, 7007.1450, and 7007.1500 need supply only  
13.6 information that is related to the proposed amendment. Information required under part  
13.7 7007.0500 must be sufficient to evaluate the subject stationary source and its application  
13.8 and to determine all applicable requirements. The application shall also contain a  
13.9 certification from a responsible official consistent with part 7007.0500, subpart 3.

13.10 [For text of subp 2, see M.R.]

13.11 **7007.0650 APPLICATION SUBMITTAL.**

13.12 Subpart 1. **Who receives application.** Permit applicants shall submit two printed  
13.13 copies of the complete application and all supplemental information requested by the  
13.14 commissioner to the ~~Minnesota Pollution Control Agency at 520 Lafayette Road North,~~  
13.15 ~~Saint Paul, Minnesota 55155~~ address specified by the commissioner. Upon request of the  
13.16 commissioner, the applicant shall submit additional copies of the application directly to the  
13.17 administrator, affected states, and other governmental entities with the legal right to review  
13.18 the application, or submit additional copies to the agency to be forwarded to these parties.

13.19 Subp. 2. **Electronic application submittal.** Applicants may submit applications and  
13.20 supplemental information in an electronic format specified by the commissioner. If the  
13.21 information is submitted in an electronic format:

13.22 A. the applicant must submit a printed copy of the complete application and  
13.23 supplemental information if requested by the commissioner ~~may allow the applicant to~~  
13.24 ~~submit fewer printed copies than required in subpart 1; and~~

13.25 B. ~~the application must include the application certification required by part~~  
13.26 ~~7007.0500, subpart 3,~~ must either:

14.1 (1) be on paper with an original signature; or

14.2 (2) with have an electronic signature, if such a method of signature has  
14.3 been approved by the commissioner.

14.4 **7007.0700 COMPLETENESS REVIEW.**

14.5 A. Within one week of receipt of an application, the agency shall notify the  
14.6 applicant in writing that it has received the application.

14.7 B. Within 60 days of receipt of an application, the agency shall notify the  
14.8 applicant in writing of whether the application is complete. If the agency fails to make  
14.9 the completeness determination required above within the 60-day period, the application  
14.10 shall be deemed complete. A completeness determination under this subpart triggers  
14.11 timelines for permit issuance under part 7007.0750, retroactive to the date the complete  
14.12 application was received by the agency, but does not limit the agency's ability to request  
14.13 additional information.

14.14 C. If an application is incomplete, the agency shall identify the incomplete  
14.15 portions of the application and outline the actions needed to complete the application.

14.16 D. If, during processing of a permit application that has been deemed complete,  
14.17 a minor permit amendment application, or an administrative amendment application, the  
14.18 agency determines that additional information is necessary to evaluate or take final action  
14.19 on that application, it may request such information in writing, and, after consultation with  
14.20 the applicant, set a deadline for a response. In the request for additional information, the  
14.21 agency shall briefly explain why the additional information is needed. If an applicant fails  
14.22 to respond to requests for additional information within the time period requested, the  
14.23 application shall be deemed incomplete. Applicants who have already made a change or  
14.24 begun actual construction of a modification at a permitted facility under part 7007.1450,  
14.25 shall provide the additional information within the time period specified by the agency.

15.1 E. Items A and B do not apply to applications for minor amendments or  
15.2 administrative amendments.

15.3 **7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.**

15.4 [For text of subp 1, see M.R.]

15.5 **Subp. 2. Application processing and issuance deadlines.**

15.6 [For text of items A and B, see M.R.]

15.7 C. The agency shall take final action on applications for permits or permit  
15.8 amendments not governed by items A and B within the period specified in this item. The  
15.9 agency shall take final action on such an application for a permit, permit reissuance, or  
15.10 major permit amendment within 18 months of receiving a complete application. The  
15.11 agency shall take final action on such an application for a minor permit amendment  
15.12 within 90 days of receiving a complete application or for a moderate permit amendment  
15.13 within six months of receiving a complete application, but not before the end of the  
15.14 administrator's 45-day review period in the case of part 70 permits. The agency shall take  
15.15 final action on an application for an administrative amendment within 60 days of receiving  
15.16 the complete application.

15.17 [For text of items D to F, see M.R.]

15.18 [For text of subps 3 to 6, see M.R.]

15.19 **Subp. 7. Two-stage issuance of permits and permit amendments authorizing**  
15.20 **construction or modification.**

15.21 A. If a permit or permit amendment:

15.22 (1) authorizes construction or modification;

15.23 (2) ~~includes the requirements of a part 70 permit;~~

16.1 (3) must follow the 45-day EPA review period procedures under part  
16.2 7007.0950; and

16.3 (4)(3) includes either:

16.4 (a) the requirements of a new source review program under part C  
16.5 (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for  
16.6 Nonattainment Areas) of the act; or

16.7 (b) an enforceable limitation assumed to avoid being subject to a new  
16.8 source review program under part C or D of the act,  
16.9 then the agency shall send the permit to the permittee after ~~all requirements~~ the procedural  
16.10 requirements, including public participation procedures, of the applicable new source  
16.11 review program have been satisfied or after all requirements to avoid applicability of  
16.12 a new source review program have been completed including any required notice and  
16.13 comment period. The agency shall at the same time notify the permittee in writing that  
16.14 those permit conditions required by the new source review program or developed to avoid  
16.15 applicability of a new source review program and designated as such by the agency in the  
16.16 permit or amendment, and only those conditions, shall be considered issued.

16.17 [For text of items B and C, see M.R.]

16.18 [For text of subp 8, see M.R.]

16.19 **7007.0800 PERMIT CONTENT.**

16.20 [For text of subp 1, see M.R.]

16.21 Subp. 2. **Emission limitations and standards.** The permit must:

16.22 A. include emissions limitations, operational requirements, and other provisions  
16.23 needed to ensure compliance with all applicable requirements at the time of permit  
16.24 issuance. For part 70 permits, the requirements and limitations must include approved  
16.25 replicable methodologies identified by the source in its permit application if approved by

17.1 the commissioner, provided that no approved replicable methodologies shall contravene  
17.2 any terms needed to comply with any applicable requirement or requirement of this part  
17.3 or circumvent any applicable requirement that would apply as a result of implementing  
17.4 the approved replicable method;

17.5 B. include any condition the commissioner determines to be necessary to  
17.6 protect human health and the environment;

17.7 C. state that, where another applicable requirement of the act is more stringent  
17.8 than any applicable requirement of regulations promulgated under title IV of the act  
17.9 (Acid Deposition Control), both provisions shall be incorporated into the permit and shall  
17.10 be enforceable by the administrator; and

17.11 D. contain provisions to ensure continuous compliance with applicable  
17.12 emissions limitations during periods of ~~startup~~ start-up and shutdown of an emissions unit;  
17.13 ~~such as operating parameters or best practices to minimize emissions.~~

17.14 [For text of subps 3 to 10, see M.R.]

17.15 Subp. 11. **Alternative operating scenarios.** Terms and conditions allowing for  
17.16 reasonably anticipated alternative operating scenarios identified by the stationary source in  
17.17 its application. Such terms and conditions shall:

17.18 [For text of item A, see M.R.]

17.19 B. ensure that the operation under each such alternative operating scenario  
17.20 complies with all applicable requirements and the requirements of parts 7007.0100  
17.21 to 7007.1850.

17.22 [For text of subps 12 to 16, see M.R.]

17.23 **7007.0801 CONDITIONS FOR AIR EMISSION PERMITS FOR WASTE**  
17.24 **COMBUSTORS.**

17.25 [For text of subp 1, see M.R.]

18.1           **Subp. 2. Mixed municipal solid waste or refuse-derived fuel waste combustors.**

18.2           An air emissions permit for a waste combustor combusting mixed municipal solid waste  
18.3           or refuse-derived fuel must:

18.4                               [For text of items A to F, see M.R.]

18.5                       G. include operating conditions that ensure that the facility will continue to emit  
18.6           mercury emissions less than 50 percent of the applicable standard if the waste combustor  
18.7           elects to conduct mercury emissions testing as allowed in part 7011.1270 and Minnesota  
18.8           Statutes, section 116.85.

18.9           **Subp. 3. Waste combustors of nonmixed municipal solid waste.** An air emissions  
18.10          permit for a waste combustor which does not combust mixed municipal solid waste or  
18.11          refuse-derived fuel must:

18.12                           [For text of items A to E, see M.R.]

18.13                   F. include operating conditions that ensure that the facility will continue to emit  
18.14          mercury emissions less than 50 percent of the applicable standard if the waste combustor  
18.15          elects to conduct annual mercury emissions testing as allowed in part 7011.1270 and  
18.16          Minnesota Statutes, section 116.85.

18.17          **7007.0950 EPA REVIEW AND OBJECTION.**

18.18               **Subpart 1. Review by EPA.**

18.19                   A. The commissioner must provide to the administrator a copy of the following  
18.20          documents, unless the administrator agrees to accept a summary of the documents:

18.21                           [For text of subitems (1) and (2), see M.R.]

18.22                   B. In the case of a part 70 permit, the commissioner must provide to the  
18.23          administrator the proposed permit or permit amendment after the draft permit or permit  
18.24          amendment has been subject to public comment.

19.1 [For text of item C, see M.R.]

19.2 **Subp. 2. EPA objection.**

19.3 A. In the case of a part 70 permit, the agency shall not issue a permit or permit  
19.4 amendment if the administrator objects to its issuance in writing within 45 days of receipt  
19.5 of the proposed permit or permit amendment and any necessary supporting information.

19.6 B. In the case of a state permit, the agency shall not issue a permit, or an  
19.7 amendment for which EPA review is provided under subpart 1, if the administrator objects  
19.8 to its issuance in writing within 30 days of receipt of the draft permit or amendment  
19.9 and any necessary supporting information.

19.10 [For text of subps 3 and 4, see M.R.]

19.11 **7007.1000 PERMIT ISSUANCE AND DENIAL.**

19.12 **Subpart 1. Preconditions for issuance.** The following conditions must be satisfied  
19.13 for the agency to issue a permit or permit amendment:

19.14 A. the agency has received a complete application for a permit, permit  
19.15 amendment, or permit reissuance, except that a complete application need not be received  
19.16 before issuance of a general permit under part 7007.1100, subpart 4;

19.17 B. the agency has complied with the public participation procedures for permit  
19.18 issuance, if required by part 7007.0850;

19.19 C. the agency has complied with the procedures for notifying and responding to  
19.20 affected states, if required by part 7007.0900;

19.21 D. if the administrator's review is required by part 7007.0950, the administrator  
19.22 has received a copy of the permit and any notices required and has not objected to issuance  
19.23 of the permit within the time period specified, or the administrator has objected but the  
19.24 objection has been resolved to the administrator's satisfaction;

20.1 E. the conditions of the permit provide for compliance with all applicable  
20.2 requirements and the requirements of parts 7007.0100 to 7007.1850, or include a schedule  
20.3 to achieve such compliance;

20.4 F. the permit does not reflect a variance from any federally enforceable  
20.5 applicable requirement or requirement of parts 7007.0100 to 7007.1850;

20.6 G. the agency anticipates that the applicant will, with respect to the stationary  
20.7 source and activity to be permitted, comply with all conditions of the permit; and

20.8 H. all applicable provisions of Minnesota Statutes, chapter 116D, and the rules  
20.9 adopted under Minnesota Statutes, chapter 116D, have been fulfilled.

20.10 [For text of subps 2 and 3, see M.R.]

20.11 **7007.1100 GENERAL PERMITS.**

20.12 Subpart 1. **Criteria.** If the agency determines that numerous similar stationary  
20.13 sources are subject to the same or substantially similar regulatory requirements, the  
20.14 agency may issue a permit required under parts 7007.0200 and 7007.0250 in the form of a  
20.15 general permit applying to multiple sources following the procedures in subparts 2 to 7.  
20.16 The agency may also issue general permits under this part which apply only to specific  
20.17 portions of stationary sources, including air pollution control equipment, if the specific  
20.18 portions are subject to the same or substantially similar regulatory requirements. The  
20.19 agency shall specify in the notice in subpart 2 whether the general permit applies to an  
20.20 entire stationary source or to specific portions of a stationary source for the purpose of  
20.21 determining applicability under subpart 11. The agency shall not issue general permits  
20.22 for affected sources under the acid rain program unless general permits are authorized by  
20.23 regulations promulgated under title IV of the act (Acid Deposition Control).

20.24 [For text of subps 2 to 8, see M.R.]



21.1 Subp. 9. **Changes or modifications rendering stationary source ineligible for**  
21.2 **general permit.** The owner and operator of a stationary source that operates under an  
21.3 agency-issued general permit must submit a part 70, state, capped, or registration permit  
21.4 application before making a change or modification that results in the stationary source no  
21.5 longer qualifying for the general permit under this part. The owner or operator may not  
21.6 begin actual construction on the modification until the required part 70, state, capped, or  
21.7 registration permit for the stationary source is obtained or an installation and operation  
21.8 permit for the modification is obtained under part 7007.0750, subpart 5.

21.9 Subp. 10. **Regulatory change rendering stationary source ineligible for general**  
21.10 **permit.**

21.11 A. If a stationary source covered by a general permit becomes subject to a new  
21.12 regulatory requirement that results in the stationary source no longer being able to qualify  
21.13 for or meet the requirements of the general permit, then the owners and operators must:

21.14 (1) submit written notification to the commissioner within 30 days of the  
21.15 effective date of a new regulation that results in the stationary source no longer being  
21.16 able to qualify for or meet the requirements of the general permit. The notification must  
21.17 include a description of the regulatory change and a statement of what type of permit  
21.18 application the owners and operators will submit under subitem (2); and

21.19 (2) submit either a part 70, state, capped, or registration permit application  
21.20 within 180 days of the effective date of the regulatory change.

21.21 B. The owners and operators must submit the required permit application for  
21.22 the appropriate air emission permit within the time limits in item A. If the owners and  
21.23 operators fail to submit the required permit application in the time required, the owners  
21.24 and operators do not hold a valid permit and are in violation of part 7007.0150, subpart 1.

22.1 Subp. 11. **Parts that do not apply to certain general permits.** For general permits  
22.2 that cover an entire stationary source, parts 7007.1150 to 7007.1250 and 7007.1350 to  
22.3 7007.1500 do not apply.

22.4 **7007.1142 CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS.**

22.5 Subpart 1. **Capped permit issuance, denial, and revocation.**

22.6 A. ~~The following conditions must be satisfied~~ To be eligible to receive a capped  
22.7 permit and for the commissioner to issue a capped permit to, the owners and operators of  
22.8 a stationary source must meet the following conditions:

22.9 (1) the owners and operators have submitted a complete application for a  
22.10 capped permit;

22.11 (2) the commissioner determines that the stationary source qualifies for  
22.12 the capped permit option under parts 7007.1140 to 7007.1148 for which the application  
22.13 was submitted; and

22.14 (3) the commissioner has reason to believe that the stationary source will  
22.15 comply with the capped permit.

22.16 B. The commissioner shall deny an application for a capped permit if the  
22.17 commissioner determines that the stationary source does not qualify for the capped permit  
22.18 option under parts 7007.1140 to 7007.1148 for which the application was submitted or that  
22.19 the stationary source will not be able to comply with the capped permit. The grounds for  
22.20 permit denial in parts 7007.1000, subpart 1, item H, and part 7007.1000, subpart 2, items  
22.21 B to G, also constitute grounds for the commissioner to deny a capped permit application.

22.22 C. The commissioner may revoke a capped permit, if the commissioner finds  
22.23 that any of the grounds under subpart 6 or under part 7007.1700, subpart 1, exist, by  
22.24 following the procedure in part 7007.1700, subpart 2.

23.1 Subp. 1a. **Changes that trigger new source performance standards.** If a change  
23.2 or modification made at a stationary source that is operating under a capped permit results  
23.3 in the stationary source being subject to a new source performance standard listed under  
23.4 part 7007.1140, subpart 2, item E, or if the change or modification adds an emissions unit  
23.5 subject to the standards listed in part 7007.0300, the owner or operator must submit to  
23.6 the commissioner:

23.7 A. the information required by the standard by the time specified in the standard;

23.8 B. written notice that contains a description of the change; and

23.9 C. a copy of the applicable new source performance standard part, with the  
23.10 applicable portions of the new source performance standard highlighted, including the  
23.11 applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, as amended,  
23.12 or a new source performance standard form provided by the commissioner that identifies  
23.13 applicable portions of the new source performance standard.

23.14 [For text of subps 2 to 7, see M.R.]

23.15 **7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.**

23.16 [For text of items A and B, see M.R.]

23.17 C. A written notice to the agency shall be sent by any person who, at a permitted  
23.18 stationary source, makes a change that: (i) does not increase emissions of any regulated air  
23.19 pollutant; (ii) does not constitute a title I modification; and (iii) does not constitute any  
23.20 other type of modification, if the change is one of the following:

23.21 (1) installing air pollution control equipment;

23.22 (2) replacing a unit identified in the permit; or

23.23 (3) replacing existing air pollution control equipment with listed control  
23.24 equipment, as defined in part 7011.0060, subpart 4, ~~that meets the control equipment~~  
23.25 ~~efficiencies for listed control equipment in part 7011.0070 and has an equivalent or better~~

24.1 ~~control efficiency of regulated pollutants previously controlled with the control equipment~~  
24.2 ~~being replaced.~~ provided that the replacement air pollution control equipment:

24.3 (a) attains at least the control equipment efficiency in part 7011.0070  
24.4 for each applicable pollutant; and

24.5 (b) has a listed control efficiency in part 7011.0070 that is equivalent  
24.6 to or better than the control efficiency of the control equipment being replaced for each  
24.7 applicable pollutant.

24.8 The notice must be received by the agency at least seven working days prior to the  
24.9 installation or replacement. The permittee must submit the notice in a format specified  
24.10 by the commissioner. The notice must include all information needed to determine the  
24.11 applicability of a requirement or to impose any applicable requirement. The notice must  
24.12 be certified by a responsible official in the manner provided in part 7007.0500, subpart  
24.13 3. The permittee and the agency shall attach the notice to the stationary source's permit.  
24.14 If the agency finds that the installation or replacement triggers new monitoring, record  
24.15 keeping, or reporting requirements under applicable requirements or parts 7007.0100 to  
24.16 7007.1850, the agency shall initiate an amendment under part 7007.1400 or 7007.1500  
24.17 to include the new requirements. If the installation or replacement constitutes a title  
24.18 I modification or other type of modification, this item does not apply, and the permittee  
24.19 shall follow the applicable procedures of part 7007.1250, 7007.1350, 7007.1450, or  
24.20 7007.1500. If notice is provided as required by this item, the installation and operation of  
24.21 the additional equipment shall not be considered a violation of the permit.

24.22 [For text of items D to F, see M.R.]

24.23 **7007.1250 INSIGNIFICANT MODIFICATIONS.**

24.24 Subpart 1. **When an insignificant modification can be made.** The permittee  
24.25 may make a modification described in either item A or B at a permitted stationary  
24.26 source without getting a permit amendment, unless the modification is prohibited by

25.1 subpart 2. However, if the modification triggers new monitoring, record keeping, or  
 25.2 reporting requirements under applicable requirements or parts 7007.0100 to 7007.1850,  
 25.3 the permittee shall initiate an administrative amendment under part 7007.1400 to include  
 25.4 the new requirements no more than 30 days after making the modification.

25.5 A. Construction or operation of any emissions unit, or undertaking any activity,  
 25.6 that is on the insignificant activities list in part 7007.1300, subparts 2 and 3.

25.7 B. Any modification that will:

25.8 (1) result in an increase of a regulated air pollutant which is not listed  
 25.9 in table 1; or

25.10 (2) result in an increase of an air pollutant which is listed in table 1, but in  
 25.11 an amount less than the corresponding threshold.

25.12 **Table 1**

25.13	Pollutant	Threshold
25.14	NO <sub>x</sub>	2.28 pounds per hour
25.15	SO <sub>2</sub>	2.28 pounds per hour
25.16	VOCs	2.28 pounds per hour
25.17	PM-10	0.855 pounds per hour
25.18	CO	5.70 pounds per hour
25.19	Lead	0.025 pounds per hour

25.20 For purposes of this subpart, whether or not the modification will cause an increase in  
 25.21 emissions shall be calculated as described in part 7007.1200. An owner or operator  
 25.22 may not use control equipment efficiencies for listed control equipment determined by  
 25.23 part 7011.0070 to qualify for an insignificant modification, unless the specifications for  
 25.24 the control equipment are from a control equipment manufacturer, as defined in part  
 25.25 7011.0060, subpart 3. Modifications which would otherwise be insignificant under this  
 25.26 part may be title I modifications, for which a major amendment is required, using the

26.1 methods of calculation required under title I of the act. Permittees are reminded to review  
26.2 the definition of title I modifications and the requirements of title I of the act.

26.3 [For text of subps 2 to 6, see M.R.]

26.4 **7007.1300 INSIGNIFICANT ACTIVITIES LIST.**

26.5 [For text of subp 1, see M.R.]

26.6 Subp. 2. **Insignificant activities not required to be listed.** The activities described  
26.7 in this subpart are not required to be listed in a permit application under part 7007.0500,  
26.8 subpart 2, item C, subitem (2). Calculation of emissions from these activities must be  
26.9 provided if required by the agency under part 7007.0500, subpart 2, item C, subitem (2).  
26.10 If emissions units listed in this subpart (a) are subject to additional requirements under  
26.11 section 114(a)(3) (Monitoring Requirements) or 112 (Hazardous Air Pollutants) of the  
26.12 act; (b) are part of a Title I modification; or (c) if accounted for, make a stationary source  
26.13 subject to a part 70 permit, then emissions from the emissions units must be provided  
26.14 in the permit application.

26.15 [For text of items A to C, see M.R.]

26.16 D. Processing operations:

26.17 (1) closed tumblers used for cleaning or deburring metal products without  
26.18 abrasive blasting;

26.19 (2) equipment for washing or drying fabricated glass or metal products, if  
26.20 no VOCs are used in the process, and no gas, oil, or solid fuel is burned; and

26.21 (3) blast cleaning operations using suspension of abrasive in water.

26.22 [For text of items E to K, see M.R.]

26.23 Subp. 3. **Insignificant activities required to be listed.** The activities described in  
26.24 this subpart must be listed in a permit application, and calculation of emissions from these

activities shall be provided if required by the agency, under part 7007.0500, subpart 2, item C, subitem (2). If emissions units listed in this subpart are subject to additional requirements under section 114(a)(3) of the act (Monitoring Requirements) or section 112 of the act (Hazardous Air Pollutants), or if part of a title I modification, or, if accounted for, make a stationary source subject to a part 70 permit, emissions from the emissions units must be calculated in the permit application.

[For text of item A, see M.R.]

B. Infrared electric ovens and indirect heating equipment:

(1) infrared electric ovens; and

(2) indirect heating equipment as defined in part 7011.0600, subpart 6, with a capacity less than 420,000 Btu per hour, but only if the total combined capacity of all indirect heating equipment at the stationary source with a capacity less than 420,000 Btu per hour is less than or equal to 1,400,000 Btu per hour. For example: Facility A has three furnaces, each with a capacity of 400,000 Btu per hour. The three units are all an insignificant activity to be listed under this subitem, because their combined capacity is less than 1,400,000 Btu per hour. Facility B has six furnaces, each with a capacity of 400,000 Btu per hour. None of the six units is an insignificant activity under this subitem, because their total combined capacity is greater than 1,400,000 Btu per hour. For purposes of this subitem, "indirect heating equipment" has the meaning given under part 7011.0500, subpart 9.

C. Fabrication operations: equipment used exclusively for forging, pressing, drawing, spinning, or extruding hot metals.

D. Processing operations:

(1) open tumblers with a batch capacity of 1,000 pounds or less; and

28.1 (2) equipment that vents particulate matter (PM), PM-10, or PM-2.5 inside  
28.2 a building, such as buffing, polishing, carving, cutting, drilling, machining, routing,  
28.3 sanding, sawing, surface grinding, or turning equipment, provided that emissions from  
28.4 the equipment are:

28.5 (a) vented inside of the building 100 percent of the time; and

28.6 (b) not vented through air filtering systems.

28.7 [For text of items E and F, see M.R.]

28.8 G. Emissions from a laboratory, as defined in this item. "Laboratory" means  
28.9 a place or activity devoted to experimental study or teaching in any science, or to the  
28.10 testing and analysis of drugs, chemicals, chemical compounds or other substances, or  
28.11 similar activities, provided that the activities described in this sentence are conducted on a  
28.12 laboratory scale. Activities are conducted on a laboratory scale if the containers used for  
28.13 reactions, transfers, and other handling of substances are designed to be easily and safely  
28.14 manipulated by one person. If an emission facility manufactures or produces products for  
28.15 profit in any quantity, it may not be considered to be a laboratory under this item. Support  
28.16 activities necessary to the operation of the laboratory are considered to be part of the  
28.17 laboratory. Support activities do not include the provision of power to the laboratory from  
28.18 sources that provide power to multiple projects or from sources which would otherwise  
28.19 require permitting, such as boilers that provide power to an entire facility.

28.20 H. Miscellaneous:

28.21 [For text of subitems (1) to (6), see M.R.]

28.22 (7) cleaning operations: alkaline/phosphate cleaners and associated  
28.23 cleaners.

28.24 [For text of items I to K, see M.R.]



Subp. 4. **Insignificant activities required to be listed in a part 70 application.**

If the owners and operators are applying for the initial part 70 permit for a stationary source, emissions units with emissions less than all the following limits but not included in subpart 2 must be listed in the part 70 permit application:

[For text of items A to D, see M.R.]

Subp. 5. **Hazardous air pollutant threshold table.**

CAS#	Chemical Name	De Minimis Level (tons/year)
57147	1,1-Dimethyl hydrazine	0.008
79005	1,1,2-Trichloroethane <u>Trichloroethane</u>	1
79345	1,1,2,2-Tetrachloroethane	0.3
96128	1,2-Dibromo-3-chloropropane	0.01
122667	1,2-Diphenylhydrazine	0.09
106887	1,2-Epoxybutane	1
75558	1,2-Propylenimine (2-Methyl aziridine)	0.003
120821	1,2,4-Trichlorobenzene	10
106990	1,3-Butadiene	0.07
542756	1,3-Dichloropropene	1
1120714	1,3-Propane sultone	0.03
106467	1,4-Dichlorobenzene(p)	3
123911	1,4-Dioxane (1,4-Diethyleneoxide)	6
53963	2-Acetylaminofluorine	0.005
532274	2-Chloroacetophenone	0.06
79469	2-Nitropropane	1
540841	2,2,4-Trimethylpentane	5
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	6E-07
584849	2,4-Toluene diisocyanate	0.1
51285	2,4-Dinitrophenol	1
121142	2,4-Dinitrotoluene	0.02

30.1	94757 2,4-D, salts, esters (2,4-Dichlorophenoxy acetic acid)	10
30.2	95807 2,4-Toluene diamine	0.02
30.3	95954 2,4,5-Trichlorophenol	1
30.4	88062 2,4,6-Trichlorophenol	6
30.5	91941 3,3-Dichlorobenzidine	0.2
30.6	119904 3,3'-Dimethoxybenzidine	0.1
30.7	119937 3,3'-Dimethyl benzidine	0.008
30.8	92671 4-Aminobiphenyl	1
30.9	92933 4-Nitrobiphenyl	1
30.10	100027 4-Nitrophenol	5
30.11	101144 4,4-Methylene bis(2-chloroaniline)	0.2
30.12	101779 4,4'-Methylenedianiline	1
30.13	534521 4,6-Dinitro-o-cresol, and salts	0.1
30.14	75070 Acetaldehyde	9
30.15	60355 Acetamide	1
30.16	75058 Acetonitrile	4
30.17	98862 Acetophenone	1
30.18	107028 Acrolein	0.04
30.19	79061 Acrylamide	0.02
30.20	79107 Acrylic acid	0.6
30.21	107131 Acrylonitrile	0.3
30.22	107051 Allyl chloride	1
30.23	62533 Aniline	1
30.24	71432 Benzene	2
30.25	92875 Benzidine	0.0003
30.26	98077 Benzotrichloride	0.006
30.27	100447 Benzyl chloride	0.1
30.28	57578 beta-Propiolactone	0.1
30.29	92524 Biphenyl	10
30.30	117817 Bis(2-ethylhexyl)phthalate(DEHP)	5

31.1	542881 Bis(chloromethyl)ether	0.0003
31.2	75252 Bromoform	10
31.3	156627 Calcium cyanamide	10
31.4	133062 Captan	10
31.5	63252 Carbaryl	10
31.6	75150 Carbon disulfide	1
31.7	56235 Carbon tetrachloride	1
31.8	463581 Carbonyl sulfide	5
31.9	120809 Catechol	5
31.10	133904 Chloramben	1
31.11	57749 Chlordane	0.01
31.12	7782505 Chlorine	0.1
31.13	79118 Chloroacetic acid	0.1
31.14	108907 Chlorobenzene	10
31.15	510156 Chlorobenzilate	0.4
31.16	67663 Chloroform	0.9
31.17	107302 Chloromethyl methyl ether	0.1
31.18	126998 Chloroprene	1
31.19	1319773 Cresols/Cresylic acid (isomers and mixture)	1
31.20	95487 o-Cresol	1
31.21	108394 m-Cresol	1
31.22	106445 p-Cresol	1
31.23	98828 Cumene	10
31.24	334883 Diazomethane	1
31.25	132649 Dibenzofuran	5
31.26	72559 DDE (p,p'-Dichlorodiphenyldichloroethylene)	0.01
31.27	84742 Dibutylphthalate	10
31.28	111444 Dichloroethyl ether (Bis(2-chloroethyl)ether)	0.06
31.29	62737 Dichlorvos	0.2
31.30	11422 Diethanolamine	5

32.1	64675 Diethyl sulfate	1
32.2	60117 Dimethyl aminoazobenzene	1
32.3	79447 Dimethyl carbamoyl chloride	0.02
32.4	68122 Dimethyl formamide	1
32.5	131113 Dimethyl phthalate	10
32.6	77781 Dimethyl sulfate	0.1
32.7	106898 Epichlorohydrin	2
32.8	140885 Ethyl acrylate	1
32.9	100414 Ethyl benzene	10
32.10	51796 Ethyl carbamate (Urethane)	0.8
32.11	75003 Ethyl chloride	10
32.12	106934 Ethylene dibromide (Dibromoethane)	0.1
32.13	107062 Ethylene dichloride (1,2-Dichloroethane)	0.8
32.14	107211 Ethylene glycol	10
32.15	151564 Ethylene imine (Aziridine)	0.003
32.16	75218 Ethylene oxide	0.1
32.17	96457 Ethylene thiourea	0.6
32.18	75343 Ethylidene dichloride (1,1-Dichloroethane)	1
32.19	50000 Formaldehyde	2
32.20	76448 Heptachlor	0.02
32.21	118741 Hexachlorobenzene	0.01
32.22	87683 Hexachlorobutadiene	0.9
32.23	77474 Hexachlorocyclopentadiene	0.1
32.24	67721 Hexachloroethane	5
32.25	822060 Hexamethylene,-1,6-diisocyanate	0.02
32.26	680319 Hexamethylphosphoramidate	0.01
32.27	110543 Hexane	10
32.28	302012 Hydrazine	0.004
32.29	7647010 Hydrochloric acid	10
32.30	7664393 Hydrogen fluoride	0.1

33.1	123319 Hydroquinone	1
33.2	78591 Isophorone	10
33.3	58899 Lindane (hexachlorcyclohexane, gamma)	0.01
33.4	108316 Maleic anhydride	1
33.5	67561 Methanol	10
33.6	72435 Methoxychlor	10
33.7	74839 Methyl bromide (Bromomethane)	10
33.8	74873 Methyl chloride (Chloromethane)	10
33.9	71556 Methyl chloroform (1,1,1-Trichloroethane)	10
33.10	60344 Methyl hydrazine	0.06
33.11	74884 Methyl iodide (Iodomethane)	1
33.12	108101 Methyl isobutyl ketone	10
33.13	624839 Methyl isocyanate	0.1
33.14	80626 Methyl methacrylate	10
33.15	1634044 Methyl tert-butyl ether	10
33.16	12108133 Methylcyclopentadienyl manganese	0.1
33.17	75092 Methylene chloride (Dichloromethane)	10
33.18	101688 Methylene diphenyl diisocyanate	0.1
33.19	91203 Naphthalene	10
33.20	98953 Nitrobenzene	1
33.21	62759 N-Nitrosodimethylamine	0.001
33.22	69892 N-Nitrosomorpholine	1
33.23	684935 N-Nitroso-N-methylurea	0.0002
33.24	121697 N,N-Dimethylaniline	1
33.25	90040 o-Anisidine	1
33.26	95534 o-Toluidine	4
33.27	56382 Parathion	0.1
33.28	82688 Pentachloronitrobenzene (Quintobenzene)	0.3
33.29	87865 Pentachlorophenol	0.7
33.30	108952 Phenol	0.1

34.1	75445 Phosgene	0.1
34.2	7803512 Phosphine	5
34.3	7723140 Phosphorous	0.1
34.4	85449 Phthalic anhydride	5
34.5	1336363 Polychlorinated biphenyls (Aroclors)	0.009
34.6	106503 p-Phenylenediamine	10
34.7	123386 Propionaldehyde	5
34.8	114261 Propoxur (Baygone)	10
34.9	78875 Propylene dichloride (1,2-Dichloropropane)	1
34.10	75569 Propylene oxide	5
34.11	91225 Quinoline	0.006
34.12	106514 Quinone	5
34.13	100425 Styrene	1
34.14	96093 Styrene oxide	1
34.15	127184 Tetrachloroethylene (Perchloroethylene)	10
34.16	7550450 Titanium tetrachloride	0.1
34.17	108883 Toluene	10
34.18	8001352 Toxaphene (chlorinated camphene)	0.01
34.19	79016 Trichloroethylene	10
34.20	121448 Triethylamine	10
34.21	1582098 Trifluralin	9
34.22	108054 Vinyl acetate	1
34.23	593602 Vinyl bromide (bromoethene)	0.6
34.24	75014 Vinyl chloride	0.2
34.25	75354 Vinylidene chloride (1,1-Dichloroethylene)	0.4
34.26	1330207 Xylenes (isomers and mixture)	10
34.27	108383 m-Xylenes	10
34.28	95476 o-Xylenes	10
34.29	106423 p-Xylenes	10
34.30	- Arsenic and inorganic arsenic compounds	0.005

35.1	7784421 Arsine	0.1
35.2	- Antimony compounds (except those specifically listed)*	5
35.3	1309644 Antimony trioxide	1
35.4	1345046 Antimony trisulfide	0.1
35.5	7783702 Antimony pentafluoride	0.1
35.6	28300745 Antimony potassium tartrate	1
35.7	- Beryllium compounds (except Beryllium salts)	0.008
35.8	- Beryllium salts	0.00002
35.9	- Cadmium compounds	0.01
35.10	130618 Cadmium oxide	0.01
35.11	- Chromium compounds (except Hexavalent and Trivalent)	5
35.12	- Hexavalent Chromium compounds	0.002
35.13	- Trivalent Chromium compounds	5
35.14	10025737 Chromic chloride	0.1
35.15	744084 Cobalt metal (and compounds, except those specifically	0.1
35.16	listed)*	
35.17	10210681 Cobalt carbonyl	0.1
35.18	62207765 Fluomine	0.1
35.19	- Coke oven emissions	0.03
35.20	- Cyanide compounds (except those specifically listed)*	5
35.21	143339 Sodium cyanide	0.1
35.22	151508 Potassium cyanide	0.1
35.23	- Glycol ethers (except those specifically listed)*	5
35.24	110805 2-Ethoxy ethanol	10
35.25	111762 Ethylene glycol monobutyl ether	10
35.26	108864 2-Methoxy ethanol	10
35.27	- Lead and compounds (except those specifically listed)*	0.01
35.28	75741 Tetramethyl lead	0.01
35.29	78002 Tetraethyl lead	0.01
35.30	7439965 Manganese and compounds (except those specifically	0.8
35.31	listed)*	

36.1	12108133 Methylcyclopentadienyl manganese	0.1
36.2	- Mercury compounds (except those specifically listed)*	0.01
36.3	10045940 Mercuric nitrate	0.01
36.4	748794 Mercuric chloride	0.01
36.5	62384 Phenyl mercuric acetate	0.01
36.6	- Elemental Mercury	0.01
36.7	- Mineral fiber compounds (except those specifically listed)*	a
36.8	1332214 Asbestos	a
36.9	- Erionite	a
36.10	- Silica (crystalline)	a
36.11	- Talc (containing asbestos from fibers)	a
36.12	- Glass wool	a
36.13	- Rock wool	a
36.14	- Slag wool	a
36.15	- Ceramic fibers	a
36.16	- Nickel compounds (except those specifically listed)*	1
36.17	13463393 Nickel Carbonyl	0.1
36.18	12035722 Nickel refinery dust	0.08
36.19	- Nickel subsulfide	0.04
36.20	- Polycyclic organic matter-POM (except those specifically	0.01
36.21	listed)*	
36.22	56553 Benz(a)anthracene	0.01
36.23	50328 Benzo(a)pyrene	0.01
36.24	205992 Benzo(b)fluoranthene	0.01
36.25	57976 7,12-Dimethylbenz(a)anthracene	0.01
36.26	225514 Benz(c)acridine	0.01
36.27	218019 Chrysene	0.01
36.28	53703 Dibenz(ah)anthracene	0.01
36.29	189559 1,2:7,8-Dibenzopyrene	0.01
36.30	193395 Indeno(1,2,3-cd)pyrene	0.01
36.31	- Dioxins & Furans (TCDD equivalent)**	-



37.1	7782492 Selenium and compounds (except those specifically listed)*	0.1
37.2	7488564 Selenium sulfide (mono and di)	0.1
37.3	7783075 Hydrogen selenide	0.1
37.4	10102188 Sodium selenite	0.1
37.5	13410010 Sodium selenate	0.1
37.6	99999918 Radionuclides (including radon)	b

37.7 \* - For this chemical group, specific compounds or subgroups are named specifically in  
37.8 this table. For the remainder of the chemicals of the chemical group, a single de minimis  
37.9 value is listed, which applies to compounds which are not named specifically.

37.10 \*\* - The "toxic equivalent factor" method in EPA/625/3-89-016 (U.S. EPA (1989) Interim  
37.11 procedures for estimating risk associated with exposure to mixtures) should be used for  
37.12 PCDD/PCDF mixtures. A different de minimis level will be determined for each mixture  
37.13 depending on the equivalency factors used which are compound specific. For purposes  
37.14 of this part, the document EPA/625/3-89-016, Interim Procedures for Estimating Risk  
37.15 Associated with Exposure to Mixtures, U.S. EPA (1989), is incorporated by reference.  
37.16 The Environmental Protection Agency is the author and publisher. This document is  
37.17 available at the University of Minnesota through the Minitex interlibrary loan system.  
37.18 This document is subject to frequent change.

37.19 a - De minimis values are zero. Currently available data do not support assignment of a  
37.20 "trivial" emission rate; therefore, the value assigned will be policy based.

37.21 b - The EPA relies on Code of Federal Regulations, title 40, part 61, subparts B and I, and  
37.22 Appendix E, and assigns a de minimis level based on an effective dose equivalent of 0.3  
37.23 milliem per year for a seven-year exposure period that would result in a cancer risk of one  
37.24 per million. The individual radionuclides subject to de minimis levels are contained in  
37.25 Code of Federal Regulations, title 40, part 61.

37.26 **7007.1350 CHANGES THAT CONTRAVENE CERTAIN PERMIT TERMS.**

37.27 [For text of subp 1, see M.R.]

38.1 Subp. 2. **Procedure.** Changes authorized under this part may not be made until seven  
38.2 working days after the agency receives written notice of the change. The permittee must  
38.3 submit the notice in a format specified by the commissioner. The notice shall include a  
38.4 certification, consistent with part 7007.0500, subpart 3, by a responsible official describing  
38.5 the change to be made, identifying the term of the permit which is being contravened,  
38.6 stating that the change is authorized under this part, and briefly describing how it qualifies  
38.7 under this part. The permittee and the agency shall attach the notice to the stationary  
38.8 source's permit. If the agency finds that the proposed change is not authorized under this  
38.9 part, the agency shall notify the permittee of that finding and, if the proposed change could  
38.10 be made using other procedures, direct the permittee to those procedures.

38.11 [For text of subp 3, see M.R.]

38.12 **7007.1400 ADMINISTRATIVE PERMIT AMENDMENTS.**

38.13 Subpart 1. **Administrative amendments allowed.** The agency may make the permit  
38.14 amendments described in this subpart through the administrative permit amendment  
38.15 process described in this part. An owner or operator of a stationary source must apply for  
38.16 an administrative amendment if changes are to be made under item B or E:

38.17 [For text of items A to C, see M.R.]

38.18 D. an amendment to eliminate monitoring, record keeping, or reporting  
38.19 requirements if:

38.20 (1) the requirements are rendered meaningless because the only emissions  
38.21 to which the requirements apply will no longer occur;

38.22 (2) the requirements are technically incorrect and their elimination does  
38.23 not affect the accuracy of the data generated or of the monitoring information recorded  
38.24 or reported; or

39.1 (3) the emission unit to which the monitoring, record keeping, or reporting  
39.2 requirement applies no longer exists or has been permanently disabled from use at the  
39.3 stationary source;

39.4 [For text of item E, see M.R.]

39.5 F. an amendment to incorporate into a permit the requirements from  
39.6 preconstruction review permits issued by the agency;

39.7 [For text of items G to J, see M.R.]

39.8 K. an amendment to incorporate the extension of a deadline in a permit for  
39.9 construction authorization established under a new source review program under part C  
39.10 (Prevention of Significant Deterioration of Air Quality) of the act, provided the extension  
39.11 of the deadline for construction authorization has been approved by the commissioner  
39.12 prior to the submittal of the administrative amendment application.

39.13 Subp. 2. **Initiating an administrative amendment.** A permittee must submit an  
39.14 application for an administrative amendment in a format specified by the commissioner.  
39.15 The application must be certified by a responsible official in the manner provided in part  
39.16 7007.0500, subpart 3. The permittee shall specify the section of the permit that is to be  
39.17 amended, and the reason for the amendment. The agency may also make an administrative  
39.18 amendment upon its own initiative. If an administrative amendment initiated by the  
39.19 agency would impose additional or different requirements on the permittee, the permittee  
39.20 shall be notified of the proposed amendment 30 days prior to its taking effect, unless  
39.21 the permittee consents to less notice. If the permittee objects to the amendment, the  
39.22 amendment shall not be made under this part, but the agency may reopen the permit under  
39.23 parts 7007.1500 and 7007.1600.

39.24 Subp. 3. **Timeline for final action.** The agency shall take no more than 60 days from  
39.25 receipt of an application for an administrative permit amendment to take final action on

the application. Amendments made by the agency under this part shall be made without public notice or an opportunity for public and affected states comment and hearing.

[For text of subps 4 to 6, see M.R.]

**Subp. 7. When permittee may make change.** Notwithstanding part 7007.0150, subpart 1, the permittee may make the change proposed in the administrative amendment application immediately after the application is received by the agency, if the change is described in subpart 1. However, if the change is of ownership or operational control, the new owner's or operator's right to operate the permitted stationary source under the previous sentence is contingent upon the new owner's or operator's compliance with the terms of the stationary source's permit.

#### **7007.1500 MAJOR PERMIT AMENDMENTS.**

**Subpart 1. Major permit amendment required.** A "major permit amendment" is required for any change to permit conditions or any modification at a permitted stationary source that is not allowed under parts 7007.1250 and 7007.1350 and for which an amendment cannot be obtained under the administrative permit amendment provisions of part 7007.1400, or the minor or moderate permit amendment provisions of part 7007.1450. The following always require major permit amendments:

A. any significant amendment to existing monitoring, reporting, or record keeping requirements in the permit other than:

- (1) adding new requirements;
- (2) eliminating the requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur;
- (3) eliminating the requirements that are technically incorrect where the elimination does not affect the accuracy of the data generated or of the monitoring information recorded or reported; or

(4) eliminating the requirements for an emission unit that no longer exists or has been permanently disabled from use at the stationary source;

B. any amendment to establish or amend a permit condition that is based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

[For text of items C to E, see M.R.]

[For text of subps 2 to 4, see M.R.]

#### **7007.1600 PERMIT REOPENING AND AMENDMENT BY AGENCY.**

Subpart 1. **Mandatory reopening.** The agency shall reopen and amend a permit when:

A. Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years or with a permit which is nonexpiring. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. An affected permittee must submit a permit application as required under part 7007.0400, subpart 3, to provide the information needed to issue the amendment. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

[For text of items B to D, see M.R.]

[For text of subps 2 and 3, see M.R.]

#### **7008.0100 DEFINITIONS.**

[For text of subps 1 and 2, see M.R.]

Subp. 2a. **Material usage.** "Material usage" means an activity at a stationary source ~~when a material such as a~~ the application or use of ink, paint, coating, adhesive, or solvent ~~is applied or used~~ in a way that emits only VOC, hazardous air pollutants, particulate

42.1 matter, PM-10, PM-2.5, or a combination thereof and emissions of these pollutants can be  
42.2 calculated on a mass balance basis as described in part 7008.4100. Material usage does  
42.3 not include material processes such as sanding, milling, materials reacting to form new  
42.4 materials, fuel usage, or grain or other material handling.

42.5 Subp. 2b. **Recycling.** "Recycling" means the reclamation or reuse of waste  
42.6 VOC-containing or hazardous air pollutant-containing materials from material usage  
42.7 activities, ~~as defined in part 7045.0020.~~ For purposes of this subpart, "reclamation" has  
42.8 the meaning given in part 7045.0020, subpart 73c, and "reuse" has the meaning given  
42.9 in part 7045.0020, subpart 75a.

42.10 Subp. 2c. **Solids.** "Solids" means the nonvolatile portion of the material applied or  
42.11 used in a material usage activity.

42.12 [For text of subps 3 and 4, see M.R.]

42.13 Subp. 5. **Transfer efficiency.** "Transfer efficiency" means the ratio of the weight  
42.14 of ~~coating solids adhering in the material that adheres to an object being coated to the~~  
42.15 total weight of coating solids in the material used in the application process. Transfer  
42.16 efficiency varies with the type of application method and is obtained from the application  
42.17 equipment manufacturer. If the manufacturer provides a range for the transfer efficiency,  
42.18 the transfer efficiency for calculating particulate matter, PM-10, and PM-2.5 emissions is  
42.19 the minimum specified in the range.

42.20 **7008.4000 CONDITIONALLY INSIGNIFICANT ACTIVITIES.**

42.21 If operated in compliance with this part and parts 7008.4100 and 7008.4110, the  
42.22 activities and operation of the emissions units listed in parts 7008.4100 and 7008.4110  
42.23 are insignificant activities for purposes of parts 7007.0100 to 7007.1850. To qualify for  
42.24 the exemption from permitting in part 7007.0300, subpart 1, item D, subitem (2) or (3),  
42.25 the owner or operator of a stationary source that has the potential to emit any pollutant  
42.26 in excess of a permitting threshold in chapter 7007 must comply with the requirements

43.1 of parts 7008.4000 to 7008.4110. Listing in part 7008.4100 or 7008.4110 has no effect  
43.2 on any other law, including laws enforced by the agency other than parts 7007.0100 to  
43.3 7007.1850, to which the activity may be subject.

43.4 The activities described in parts 7008.4100 and 7008.4110 must be listed in a permit  
43.5 application, and calculation of emissions from these activities shall be provided if required  
43.6 by the agency, under part 7007.0500, subpart 2, item C, subitem (2). If emissions units  
43.7 listed in part 7008.4100 or 7008.4110 are subject to additional requirements under section  
43.8 114(a)(3) of the act (Monitoring Requirements) or section 112 of the act (Hazardous Air  
43.9 Pollutants), or if part of a title I modification, or, if accounted for, make a stationary  
43.10 source subject to a part 70 permit, emissions from the emissions units must be calculated  
43.11 in the permit application.

43.12 **7008.4100 CONDITIONALLY INSIGNIFICANT MATERIAL USAGE.**

43.13 Subpart 1. **Applicability.** This part applies to the owner or operator of a stationary  
43.14 source claiming material usage in coating and solvent cleaning operations as a  
43.15 conditionally insignificant activity. To qualify as a conditionally insignificant activity  
43.16 under this part, all material usage activities at the stationary source must be included in  
43.17 the limits under subpart 2. If lead is a component of any material usage activity at the  
43.18 stationary source, this part does not apply.

43.19 Subp. 2. **Material usage limits.** The owner or operator must ~~meet the limits in items~~  
43.20 ~~A to C for~~ limit emissions from all material usage as provided in items A and B at the  
43.21 stationary source to qualify as a conditionally insignificant activity under this part.

43.22 A. VOCs. The owner or operator must limit VOC emissions ~~of VOCs from all~~  
43.23 ~~material usage activities at the stationary source~~ to less than 200 gallons or 2,000 pounds,  
43.24 or VOC usage to less than 200 gallons, in each calendar year period calculated according  
43.25 to the method in subpart 4. All VOC emissions from all material usage activities at the

44.1 stationary source must be accounted for in the annual calculation. This limit applies  
44.2 regardless of the hazardous air pollutant content of the VOC.

44.3 ~~B. The owner or operator must limit emissions of all hazardous air pollutants~~  
44.4 ~~from all material usage activities at the stationary source to less than 200 gallons or 2,000~~  
44.5 ~~pounds in each calendar year period calculated according to the method in subpart 5. All~~  
44.6 ~~hazardous air pollutant emissions from all material usage activities at the stationary source~~  
44.7 ~~must be accounted for in the annual calculation.~~

44.8 C. Particulate matter. The owner or operator must limit emissions of particulate  
44.9 matter, PM-10, and PM-2.5 to less than ~~2,000~~ 8,000 pounds each in each calendar year  
44.10 period calculated according to the method in subpart ~~6~~ 5. All particulate matter, PM-10,  
44.11 and PM-2.5 emissions from all material usage activities at the stationary source must be  
44.12 accounted for in the annual calculation. This limit applies regardless of the hazardous air  
44.13 pollutant content of the particulate matter.

44.14 Subp. 3. **Record keeping.** The owner or operator of a stationary source claiming  
44.15 material usage as a conditionally insignificant activity must:

44.16 A. maintain records for each calendar year of the number of gallons of  
44.17 VOC-containing materials purchased or used and the maximum VOC content of each  
44.18 material;

44.19 ~~B. maintain records for each calendar year of the number of gallons of~~  
44.20 ~~hazardous air pollutant-containing materials purchased or used and the maximum~~  
44.21 ~~hazardous air pollutant content of each material;~~

44.22 C. B. maintain records for each calendar year of the number of gallons of  
44.23 solids-containing materials purchased or used and the maximum solids content of each  
44.24 material;



45.1 ~~D. C.~~ maintain a record of the material safety data sheet (MSDS), or a signed  
45.2 statement from the supplier stating the maximum VOC content, ~~the maximum hazardous~~  
45.3 ~~air pollutant content~~, and the maximum solids content for each material;

45.4 ~~E. D.~~ if the owner or operator ships waste material from material usage  
45.5 activities off-site for recycling, keep records of the amount of material shipped off-site  
45.6 for recycling, the VOC content ~~and hazardous air pollutant content of the waste materials~~  
45.7 shipped off-site for recycling, and the calculations done to determine the amount of VOC  
45.8 ~~and hazardous air pollutants~~ to subtract. Acceptable records include: the material safety  
45.9 data sheets, invoices, shipping papers, and/or hazardous waste manifests;

45.10 ~~F. E.~~ if a material usage activity includes spray application of material and  
45.11 the owner or operator chooses to apply the transfer efficiency in calculations, maintain  
45.12 information on the type of spray application equipment and transfer efficiency; and

45.13 ~~G. F.~~ if requested by the commissioner, calculate and record for any of the  
45.14 previous five calendar years:

45.15 (1) the VOC emissions using the method in subpart 4;

45.16 (2) ~~the hazardous air pollutant emissions using the method in subpart 5;~~

45.17 (3) the particulate matter, PM-10, and PM-2.5 emissions using the method  
45.18 in subpart ~~6~~ 5;

45.19 (4) ~~(3)~~ the calculation used to arrive at the total for each of subitems (1)  
45.20 ~~to (3) and (2);~~ and

45.21 (5) ~~(4)~~ a list of the associated emissions units in which the material was used.

45.22 Subp. 4. **Calculating VOC emissions.** An owner or operator claiming material  
45.23 usage as a conditionally insignificant activity must calculate VOC emissions using one of  
45.24 the methods in item A or B. If the owner or operator ships waste material from material

46.1 usage activities off-site for recycling, the amount of VOC recycled may be subtracted  
46.2 from the amount of VOC calculated in item A or B:

46.3           A. gallons of VOC per calendar year equal gallons of VOC-containing material  
46.4 multiplied by the volume percentage of VOC; or

46.5           B. pounds of VOC per calendar year equal gallons of VOC-containing material  
46.6 purchased or used in a calendar year multiplied by the pounds of VOC per gallon or  
46.7 pounds of VOC-containing material purchased or used in a calendar year multiplied by  
46.8 weight percent of VOC.

46.9           ~~Subp. 5. Calculating total hazardous air pollutant emissions. An owner or~~  
46.10 ~~operator claiming material usage as a conditionally insignificant activity must calculate~~  
46.11 ~~total hazardous air pollutant emissions using one of the methods in item A or B. If~~  
46.12 ~~the owner or operator ships waste materials from material usage activities off-site for~~  
46.13 ~~recycling, the amount of hazardous air pollutants recycled may be subtracted from the~~  
46.14 ~~amount of total hazardous air pollutant calculated in item A or B:~~

46.15           ~~A. gallons of hazardous air pollutants per calendar year equal gallons of~~  
46.16 ~~hazardous air pollutant-containing material purchased or used in a calendar year multiplied~~  
46.17 ~~by the volume percentage of hazardous air pollutants; or~~

46.18           ~~B. pounds of hazardous air pollutants per calendar year equal gallons of~~  
46.19 ~~hazardous air pollutant-containing material purchased or used in a calendar year~~  
46.20 ~~multiplied by the pounds of hazardous air pollutants per gallon or pounds of hazardous~~  
46.21 ~~air pollutant-containing material purchased or used in a calendar year multiplied by the~~  
46.22 ~~weight percent of hazardous air pollutants.~~

46.23           Subp. 6 5. Calculating particulate matter, PM-10, and PM-2.5 emissions. An  
46.24 owner or operator claiming material usage as a conditionally insignificant activity must  
46.25 calculate particulate matter, PM-10, and PM-2.5 emissions individually using one of the  
46.26 methods in item A or B:

47.1 A. pounds of particulate matter, PM-10, and PM-2.5 emissions per calendar  
47.2 year equal gallons of solids-containing material purchased or used in a calendar year  
47.3 multiplied by the pounds of solids per gallon; or

47.4 B. pounds of particulate matter, PM-10, and PM-2.5 emissions per calendar  
47.5 year equal pounds of solids-containing material purchased or used in a calendar year  
47.6 multiplied by weight percent of solids per gallon.

47.7 For material usage activities that involve spray application of materials, the owner  
47.8 or operator may apply a transfer efficiency in the calculation of particulate matter,  
47.9 PM-10, and PM-2.5 emissions by multiplying the result determined by item A or B by  
47.10 (1 - transfer efficiency).

47.11 **7008.4110 CONDITIONALLY INSIGNIFICANT ~~FINISHING~~ PM AND PM-10**  
47.12 **EMITTING OPERATIONS THAT EMIT ONLY PM, PM-10, AND PM-2.5.**

47.13 Subpart 1. **Applicability.** This part applies to any a stationary source claiming  
47.14 particulate matter (PM) or particulate matter of less than ten microns (PM10) venting  
47.15 equipment as a conditionally insignificant activity.

47.16 [For text of subp 2, see M.R.]

47.17 Subp. 3. **Monitoring and record keeping.** ~~An owner or operator of A stationary~~  
47.18 ~~source claiming finishing operations that emit PM, or PM-10, or PM-2.5 venting~~  
47.19 ~~equipment~~ as a conditionally insignificant activity must:

47.20 A. operate the air cleaning system as required by the manufacturer's  
47.21 specification and part 7008.0200, item D;

47.22 B. inspect the air cleaning system as required by the manufacturer's specification;

47.23 C. maintain the air cleaning system according to the manufacturer's  
47.24 specification; and

48.1 D. maintain a record of inspection, maintenance, and repair activities for the  
48.2 air cleaning system for at least five years.

48.3 **7009.0010 DEFINITIONS.**

48.4 Subpart 1. **Scope.** For the purpose of parts 7009.0010 to 7009.0080, the following  
48.5 terms have the meanings given them.

48.6 Subp. 1a. **Averaging time.** "Averaging time" means the time period specified in part  
48.7 7009.0080 over which air pollution concentration data are averaged in preparation for  
48.8 comparison to the ambient air quality standard. ~~The average is calculated by summing all~~  
48.9 ~~data points for the time period and dividing by the number of data points.~~

48.10 Subp. 1b. **Form of the standard.** "Form of the standard" means the method used to  
48.11 determine whether ambient air quality pollutant concentrations exceed the numeric level  
48.12 of the applicable primary or secondary ambient air quality standard.

48.13 [For text of subps 2 and 3, see M.R.]

48.14 Subp. 4. **Total suspended particulate.** "Total suspended particulate" has the  
48.15 meaning given in Code of Federal Regulations, title 40, section 51.100 (ss), as amended.

48.16 **7009.0020 PROHIBITED EMISSIONS.**

48.17 No person shall emit any pollutant in such an amount or in such a manner as to  
48.18 cause or contribute to a violation of any Minnesota ambient air quality standard under  
48.19 part 7009.0080 beyond the person's property line, provided however, that in the event the  
48.20 general public has access to the person's property or portion thereof, the ambient air  
48.21 quality standards apply in those locations. The general public does not include employees  
48.22 or other categories of people who have been directly authorized by the property owner to  
48.23 enter or remain on the property for a limited period of time and for a specific purpose.

48.24 **7009.0080 MINNESOTA AMBIENT AIR QUALITY STANDARDS.**

48.25 The following table contains the state ambient air quality standards.

49.1		Level of Primary Standard	Level of Secondary Standard	Averaging Time	Form of the Standard
49.2	Air Pollutant				
49.3					
49.4					
49.5					
49.6	Hydrogen Sulfide	0.05 ppm by volume (70.0 micrograms per cubic meter)		30-minutes	30-minute average not to be exceeded more than two times in a year
49.7					
49.8					
49.9					
49.10		0.03 ppm by volume (42.0 micrograms per cubic meter)		30-minutes	30-minute average not to be exceeded more than two times in 5 consecutive days
49.11					
49.12					
49.13					
49.14	Ozone	<del>75</del> 70 ppb by volume ( <del>150</del> 137 micrograms per cubic meter)	Same as primary 8-hour standard		3-year average of the annual fourth high daily maximum 8-hour concentration does not exceed standard
49.15					
49.16					
49.17					
49.18	Carbon Monoxide	9 ppm by volume (10 milligrams per cubic meter)		8-hour	Annual second-high 8-hour concentration does not exceed standard
49.19					
49.20					
49.21					
49.22		35 ppm by volume (40 milligrams per cubic meter)		1-hour	Annual second-high 1-hour concentration does not exceed standard
49.23					
49.24					
49.25					
49.26	Sulfur Dioxide	30 ppb by volume ( <del>80</del> 79 micrograms per cubic meter)		Annual average	Annual average concentration does not exceed standard
49.27					
49.28					
49.29					
49.30					

50.1		140 ppb ( <del>365</del>		24-hour	Annual second-high
50.2		<u>367</u> micrograms			24-hour
50.3		per cubic meter)			concentration does
50.4					not exceed standard
50.5			500 ppb	3-hour	Annual
50.6			by volume		second-high 3-hour
50.7			( <del>1,300</del> <u>1,310</u>		concentration does
50.8			micrograms per		not exceed the
50.9			cubic meter)		standard
50.10		75 ppb ( <del>196</del> <u>197</u>		1-hour	3-year average
50.11		micrograms per			of the annual
50.12		cubic meter)			99th-percentile
50.13					of daily
50.14					maximum 1-hour
50.15					concentrations does
50.16					not exceed standard
50.17	Total Suspended	75 micrograms	60 micrograms	Annual average	Annual average
50.18	Particulate	per cubic meter	per cubic meter		<u>geometric mean</u>
50.19					concentration does
50.20					not exceed standard
50.21		260 micrograms	150 micrograms	24-hour	Annual second-high
50.22		per cubic meter	per cubic meter		24-hour
50.23					concentration does
50.24					not exceed standard
50.25	Nitrogen	53 ppb by	Same as primary	Annual average	Annual average
50.26	Dioxide	volume (100	standard		concentration does
50.27		micrograms per			not exceed standard
50.28		cubic meter)			

51.1		100 ppb by		1-hour	3-year average
51.2		volume (188			of the annual
51.3		micrograms per			98th-percentile
51.4		cubic meter)			of daily
51.5					maximum 1-hour
51.6					concentrations does
51.7					not exceed standard
51.8	Lead	0.15	Same as primary	Rolling 3-month	Maximum 3-month
51.9		micrograms per	standard	average	rolling average
51.10		cubic meter			from 3 consecutive
51.11					years does not
51.12					exceed the standard
51.13	PM-10	150 micrograms	Same as primary	24-hour	3-year average
51.14		per cubic meter	standard		of the annual
51.15					estimated
51.16					exceedance days
51.17					is less than or equal
51.18					to 1
51.19	PM-2.5	35 micrograms	Same as primary	24-hour	3-year average
51.20		per cubic meter	standard		of the annual
51.21					98th-percentile
51.22					of 24-hour
51.23					concentrations does
51.24					not exceed the
51.25					standard
51.26		12.0	15.0	Annual average	3-year average
51.27		micrograms per	micrograms per		of the annual
51.28		cubic meter	cubic meter		<del>quarterly-</del>
51.29					<u>seasonally-</u>
51.30					weighted average
51.31					does not exceed the
51.32					standard

52.1 **7009.0090 NATIONAL AMBIENT AIR QUALITY STANDARDS.**

52.2 The following national ambient air quality standards, established pursuant to section  
 52.3 109 of the Clean Air Act, are adopted and incorporated by reference. Interpretation of the  
 52.4 standards and measurements made to determine compliance with these standards must be  
 52.5 performed as specified in part 7009.0050:

52.6 A. sulfur dioxide (SO<sub>2</sub>), Code of Federal Regulations, title 40, sections ~~50.4(b)~~  
 52.7 ~~and 50.5(a)~~ 50.4, 50.5, and 50.17, as amended;

52.8 B. PM-10, Code of Federal Regulations, title 40, section ~~50.6(a)~~ 50.6, as  
 52.9 amended;

52.10 C. PM-2.5, Code of Federal Regulations, title 40, ~~section 50.7(a)~~ sections 50.13  
 52.11 and 50.18, as amended;

52.12 D. carbon monoxide (CO), Code of Federal Regulations, title 40, section  
 52.13 ~~50.8(a)(1) and (2)~~ 50.8, as amended;

52.14 E. ozone (O<sub>3</sub>), Code of Federal Regulations, title 40, sections ~~50.9(a) and 50.10~~  
 52.15 ~~(a)~~ 50.9 and 50.19, as amended;

52.16 F. nitrogen dioxide (NO<sub>2</sub>), Code of Federal Regulations, title 40, section ~~50.11~~  
 52.17 ~~(a) and (b)~~ 50.11, as amended; and

52.18 G. lead (Pb), Code of Federal Regulations, title 40, section ~~50.12~~ 50.16, as  
 52.19 amended.

52.20 **7009.1060 TABLE 1.**

52.21					Significant
52.22		Alert	Warning	Emergency	Harm
52.23	SO <sub>2</sub>	300 ppb	600 ppb	800 ppb	1000 ppb
52.24	24 hr. avg.	800 µg/m <sup>3</sup>	1600 µg/m <sup>3</sup>	2100 µg/m <sup>3</sup>	2620 µg/m <sup>3</sup>
52.25	PM-10 24 hr. avg.	350 µg/m <sup>3</sup>	420 µg/m <sup>3</sup>	500 µg/m <sup>3</sup>	600 µg/m <sup>3</sup>



53.1	CO	15 ppm	30 ppm	40 ppm	50 ppm
53.2	8 hr. avg.	17 mg/m <sup>3</sup>	34 mg/m <sup>3</sup>	46 mg/m <sup>3</sup>	57.5 mg/m <sup>3</sup>
53.3	4 hr. avg.				86.3 mg/m <sup>3</sup>
53.4					75 ppm
53.5	1 hr. avg.				144 mg/m <sup>3</sup>
53.6					125 ppm
53.7	NO <sub>2</sub>	150 ppb	300 ppb	400 ppb	500 ppb
53.8	24 hr. avg.	282 µg/m <sup>3</sup>	565 µg/m <sup>3</sup>	750 µg/m <sup>3</sup>	938 µg/m <sup>3</sup>
53.9	NO <sub>2</sub>	600 ppb	1200 ppb	1600 ppb	2000 ppb
53.10	1 hr. avg.	1130 µg/m <sup>3</sup>	2260 µg/m <sup>3</sup>	3000 µg/m <sup>3</sup>	3750 µg/m <sup>3</sup>
53.11	Ozone	200 ppb	400 ppb	500 ppb	600 ppb
53.12	2 hr. avg.	400 µg/m <sup>3</sup>	800 µg/m <sup>3</sup>	1000 µg/m <sup>3</sup>	1200 µg/m <sup>3</sup>

53.13 **7011.0065 APPLICABILITY.**

53.14 Subpart 1. **Applicability.** The owner or operator of a stationary source ~~shall~~ must  
 53.15 comply with parts 7011.0060 to 7011.0080 if the owner or operator elected to use the  
 53.16 control equipment efficiencies for listed control equipment established pursuant to part  
 53.17 7011.0070 to calculate potential to emit, from emissions units that discharge through  
 53.18 the listed control equipment, to:

53.19 [For text of items A to C, see M.R.]

53.20 D. qualify for registration permit option D under part 7007.1130;

53.21 E. qualify for a capped permit under parts 7007.1140 to 7007.1148; or

53.22 F. determine that a change triggers the notification requirement under part  
 53.23 7007.1150, item C, subitem (3).

53.24 Subp. 2. [Repealed, 32 SR 904]

54.1 **7011.0070 LISTED CONTROL EQUIPMENT AND CONTROL EQUIPMENT**  
 54.2 **EFFICIENCIES.**

54.3 [For text of subp 1, see M.R.]

54.4 Subp. 1a. **Exceptions where control efficiency disallowed.** The owner or operator  
 54.5 may not use a control efficiency listed in Table A if:

54.6 A. the commissioner determines that the listed efficiency is inapplicable  
 54.7 or is not representative of the source due to complexity of the process or source of  
 54.8 emissions, lack of reliable data, presence of a pollutant or constituent such as organic or  
 54.9 inorganic condensable particulate matter or an organic compound significantly more  
 54.10 difficult to control than the overall VOC gas stream that makes the categorical efficiency  
 54.11 nonrepresentative, or other site-specific conditions; or

54.12 B. the commissioner determines that alternate site-specific requirements are  
 54.13 necessary to ensure compliance with applicable requirements or to protect human health  
 54.14 or the environment.

54.15 **CONTROL EQUIPMENT EFFICIENCY - TABLE A**

54.16	ID#	CONTROL EQUIPMENT	POLLUTANT	CONTROL EFFICIENCY
54.17		DESCRIPTION		
54.18			TOTAL	HOOD: HOOD:
54.19			ENCLO- CERTI- NOT	
54.20			SURE FIED CERTIFIED	

54.21 Table A - Section 1 - Equipment Designed Primarily for Particulate Matter Control

55.1	PM CONTROL				
55.2	CATEGORY-CYCLONES				
55.3	means a device where airflow				
55.4	is forced to spin in a vortex				
55.5	through a tube				
55.6	007 Centrifugal Collector	PM	90%	72%	54%
55.7	(cyclone)-high efficiency	PM-10	78%	62%	46%
55.8	means: a cyclonic device with				
55.9	parameters stated in drawing 1				
55.10	and table 1				
55.11	008 Centrifugal Collector	PM	80%	64%	48%
55.12	(cyclone)-medium efficiency	PM-10	60%	48%	36%
55.13	means: a cyclonic device with				
55.14	parameters stated in drawing 1				
55.15	and table 1				
55.16	009 Centrifugal Collector	PM	25%	20%	15%
55.17	(cyclone)-low efficiency	PM-10	25%	20%	15%
55.18	means: a cyclonic device with				
55.19	parameters stated in drawing 1				
55.20	and table 1				
55.21	076 Multiple Cyclone without	PM	90%	72%	54%
55.22	Fly Ash Reinjection means:	PM-10	72%	58%	43%
55.23	a cyclonic device with more				
55.24	than one tube where fly ash is				
55.25	not reinjected				
55.26	057, Wet Cyclone Separator or	PM,	84%	68%	51%
55.27	085 Cyclonic Scrubbers means:	PM-10			
55.28	a cyclonic device that sprays				
55.29	water into a cyclone				
55.30	010, PM CONTROL CATEGORY-				
55.31	011, ELECTROSTATIC				
55.32	012, PRECIPITATORS means:				
55.33	146 a control device in which the				
55.34	incoming particulate matter				
55.35	receives an electrical charge				
55.36	and is then collected on a				
55.37	surface with the opposite				
55.38	electrical charge				

56.1	-assumed efficiency for boiler	PM-10	40%	NA	NA
56.2	fly ash control				
56.3	-assumed efficiency for other	PM	98%	78%	59%
56.4	applications	PM-10	94%	75%	56%
56.5	PM CONTROL CATEGORY				
56.6	- OTHER CONTROLS				
56.7	016, Fabric Filter means: a control	PM	99%	79%	59%
56.8	017, device in which the incoming	PM-10	93%	74%	56%
56.9	018 gas stream passes through a				
56.10	porous fabric filter forming a				
56.11	dust cake				
56.12	052 Spray Tower means: a control	PM	85%	68%	51%
56.13	device in which the incoming	PM-10	84%	68%	51%
56.14	gas stream passes through a				
56.15	chamber in which it contacts				
56.16	a liquid spray				
56.17	053 Venturi Scrubber means: a	PM	94%	76%	57%
56.18	control device in which the	PM-10	84%	68%	51%
56.19	incoming gas stream passes				
56.20	through a venturi into which				
56.21	a low pressure liquid is				
56.22	introduced				
56.23	055 Impingement Plate Scrubber	PM	77%	62%	46%
56.24	means: a control device in	PM-10	77%	62%	46%
56.25	which the incoming gas stream				
56.26	passes a liquid spray and is				
56.27	then directed at high velocity				
56.28	into a plate				
56.29	056, Mechanically Aided Separator	PM	64%	52%	39%
56.30	113 means: a device that relies on	PM-10	5%	4%	3%
56.31	inertia for separating particles				
56.32	from a gas stream				

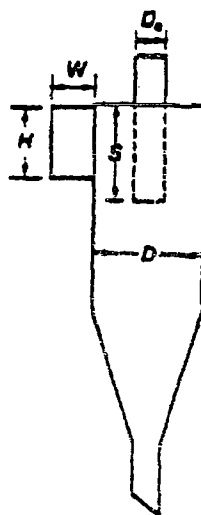
57.1	058,	Wall or Panel Filter means:	PM	85%	68%	51%
57.2	086	a control device in which	PM-10	85%	68%	51%
57.3		the exiting gas stream passes				
57.4		through a panel of coarse				
57.5		fibers. Other Wall Filters				
57.6		means removable panels for				
57.7		cleaning and replacement, or				
57.8		liquid curtains for particulate				
57.9		removal that provide little				
57.10		resistance to air flow				
57.11	101	HEPA Filter or ULPA Filter	PM	99.98%	80%	60%
57.12		means: a high efficiency	PM-10	99.98%	80%	60%
57.13		wall or panel filter designed				
57.14		for collection of submicron				
57.15		particles				
57.16	503	Charged Scrubber means:	PM	94%	76%	57%
57.17		a control device in which	PM-10	84%	68%	51%
57.18		electric power is used to				
57.19		precharge particulate matter				
57.20		in the gas stream as a means				
57.21		of increasing the scrubber's				
57.22		collection efficiency for fine				
57.23		particles				
57.24	517	Condensation Scrubber	PM	94%	76%	57%
57.25		means: a control device in	PM-10	84%	68%	51%
57.26		which steam is injected into				
57.27		a wet scrubber to create				
57.28		supersaturated conditions and				
57.29		promote condensation of water				
57.30		on fine particulate matter in				
57.31		the gas stream				

57.32 Table A - Section 2 - Equipment Designed for VOC Control (includes efficiencies for  
 57.33 pollutants where there is a co-benefit of control)

57.34 VOC CONTROL  
 57.35 CATEGORY

58.1	019, Catalytic Afterburners	VOC	94%	76%	57%
58.2	020, (catalytic oxidation) means: a	PM	62%	50%	37%
58.3	109 device used to reduce VOCs	PM-10	62%	50%	38%
58.4	to the products of combustion	CO	94%	76%	57%
58.5	through catalytic (use of				
58.6	a catalyst) oxidation in a				
58.7	combustion chamber				
58.8	021, Thermal Afterburners (thermal	VOC	97%	78%	58%
58.9	022, oxidation) means: a device	PM	62%	50%	37%
58.10	131, used to reduce VOCs to the	PM-10	62%	50%	37%
58.11	133 products of combustion	CO	97%	78%	58%
58.12	through thermal (high				
58.13	temperature) oxidation in				
58.14	a combustion chamber				
58.15	023 Flaring or Direct Combustor	VOC	98%	79%	59%
58.16	means: a device in which air,	PM	61%	50%	37%
58.17	combustible organic waste	PM-10	61%	50%	37%
58.18	gases, and supplementary fuel	CO	98%	79%	59%
58.19	(if needed) react in the flame				
58.20	zone (e.g., at the flare tip) to				
58.21	destroy the VOCs				

Drawing 1




---

SOURCE: Lapple, 1951.

Table 1

		Cyclone Type		
	Ratio Dimensions	High Efficiency	Medium Efficiency	Low Efficiency
59.4	Height of inlet,			
59.5	H/D	$\leq 0.44$	$>0.44$ and $<0.8$	$\geq 0.8$
59.6	Width of inlet,			
59.7	W/D	$\leq 0.2$	$>0.2$ and $<0.375$	$\geq 0.375$
59.8	Diameter of gas			
59.9	exit, $D_e/D$	$\leq 0.4$	$>0.4$ and $<0.75$	$\geq 0.75$
59.10	Length of vortex			
59.11	finder, S/D	$\leq 0.5$	$>0.5$ and $<0.875$	$\geq 0.875$

59.12 If one or more of the "ratio dimensions," as listed in table 1, are in a different efficiency  
 59.13 category (high, medium, low), then the lowest efficiency category shall be applied.

59.14 [For text of subps 1b to 4, see M.R.]

59.15 **7011.0080 MONITORING AND RECORD KEEPING FOR LISTED CONTROL**  
 59.16 **EQUIPMENT.**

59.17 The owner or operator of a stationary source ~~shall~~ must comply with the monitoring  
 59.18 and record keeping required for listed control equipment by the table in this part. The  
 59.19 owner or operator shall maintain the records required by this part for a minimum of five  
 59.20 years from the date the record was made. Unless a specific format is required, the records  
 59.21 may be maintained in either electronic or paper format. For certified hoods, the owner or  
 59.22 operator shall comply with part 7011.0072.

59.23	Identification	Pollution Control	Monitoring	Record-keeping
59.24	Number(s)	Equipment Type	Parameter(s)	Requirement

59.25 A. Equipment designed for particulate matter control

59.26	007, 008, 009,	Centrifugal collector	Pressure drop	Record pressure drop
59.27	076,	(cyclone)		every 24 hours if in
59.28				operation

60.1	010, 011, 012, 146	Electrostatic precipitator	Voltage, secondary current, and, if used, conditioning agent flow rate	Continuous readout of voltage, and secondary current. If used, daily record of conditioning agent flow rate
60.2				
60.3				
60.4				
60.5				
60.6	016, 017	Fabric filter (bag house), high temperature (T>250°F), medium temperature (180°F> T<250°F)	Pressure drop	Record pressure drop every 24 hours if in operation
60.7				
60.8				
60.9				
60.10				
60.11				
60.12	018	Fabric filter (bag house), low temperature (T<180°F)	Pressure drop or visible emissions observation from filter outlet during an entire cleaning cycle, unless the commissioner specifies pressure drop and/or visible emissions as the indicator(s) of fabric filter performance	Record pressure drop every 24 hours if in operation, or Record whether any visible emissions are observed and the time period of observation every 24 hours if in operation; or record both if the commissioner requires monitoring of both parameters
60.13				
60.14				
60.15				
60.16				
60.17				
60.18				
60.19				
60.20				
60.21				
60.22				
60.23				
60.24	052	Spray tower	Liquid flow rate and pressure drop	Record each parameter every 24 hours if in operation
60.25				
60.26				
60.27	053, 055	Venturi scrubber, impingement plate scrubber	Pressure drop and liquid flow rate	Record each parameter every 24 hours if in operation
60.28				
60.29				
60.30	056, 113	Mechanically aided separator	Pressure drop	Record every 24 hours if in operation
60.31				



61.1	058, 101	HEPA and other wall	Condition of the filters, Record of filter(s)
61.2		filters	including, but not condition every 24
61.3			limited to, alignment, hours if in operation
61.4			saturation, and tears
61.5			and holes
61.6	057, 085	Wet cyclone separator	Pressure drop; and Record each parameter
61.7			water pressure every 24 hours if in
61.8			operation
61.9	503	Charged scrubber	Pressure drop and Record each parameter
61.10			liquid flow rate every 24 hours if in
61.11			operation
61.12	517	Condensation scrubber	Pressure drop and Record each parameter
61.13			either steam supply every 24 hours if in
61.14			rate or blowdown rate operation

61.15 B. Equipment designed for volatile organic compound control

61.16	021, 022, 131,	Thermal afterburner	Combustion	Record temperatures
61.17	133		temperature or inlet	at least once every 15
61.18			and outlet temperatures	minutes
61.19	019, 020, 109	Catalytic afterburner	Inlet and outlet	Record temperatures
61.20			temperatures; and	or manual readings at
61.21			catalyst bed reactivity	least once every 15
61.22			as per manufacturer's	minutes; and record
61.23			specifications	results of catalyst bed
61.24				reactivity
61.25	023	Flaring	Temperature indicating	Record temperatures
61.26			presence of a flame	at least once every 15
61.27				minutes

61.28 **7011.0510 STANDARDS OF PERFORMANCE FOR EXISTING INDIRECT**  
61.29 **HEATING EQUIPMENT.**

61.30 Subpart 1. **Particulate matter and sulfur dioxide.** No owner or operator of existing  
61.31 indirect heating equipment shall cause to be discharged into the atmosphere from said

62.1 equipment any gases that contain filterable particulate matter or sulfur dioxide in excess of  
62.2 the standards of performance shown in part 7011.0545.

62.3 [For text of subps 2 and 3, see M.R.]

62.4 **7011.0515 STANDARDS OF PERFORMANCE FOR NEW INDIRECT HEATING**  
62.5 **EQUIPMENT.**

62.6 Subpart 1. **Particulate matter, sulfur dioxide, and nitrogen oxides.** No owner or  
62.7 operator of new indirect heating equipment shall cause to be discharged into the atmosphere  
62.8 from said equipment any gases that contain filterable particulate matter, sulfur dioxide, or  
62.9 nitrogen oxides in excess of the standards of performance shown in part 7011.0550.

62.10 [For text of subps 2 and 3, see M.R.]

62.11 **7011.0530 PERFORMANCE TEST METHODS.**

62.12 Unless another method is approved by the commissioner, any person required to  
62.13 submit performance tests for indirect heating equipment must use the following test  
62.14 methods to demonstrate compliance:

62.15 A. Method 1 for selection of sampling site and sample traverses;

62.16 B. Method 3 for gas analysis;

62.17 C. Method 5 for concentration of filterable particulate matter and the associated  
62.18 moisture content;

62.19 D. Method 6 for concentration of SO<sub>2</sub>;

62.20 E. Method 7 for concentration of NO<sub>x</sub>; and

62.21 F. Method 9 for visual determination of opacity.

62.22 **7011.0535 PERFORMANCE TEST PROCEDURES.**

62.23 [For text of subps 1 and 2, see M.R.]

63.1 Subp. 3. **Method 5.** For Method 5, the sampling time for each run ~~shall~~ must be at  
63.2 least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf) except  
63.3 that smaller sampling times or volumes, when necessitated by process variables or other  
63.4 factors, may be approved by the agency.

63.5 [For text of subps 4 to 9, see M.R.]

63.6 **7011.0610 STANDARDS OF PERFORMANCE FOR FOSSIL-FUEL-BURNING**  
63.7 **DIRECT HEATING EQUIPMENT.**

63.8 Subpart 1. **Particulate matter limitations.**

63.9 A. No owner or operator of any direct heating equipment shall cause to be  
63.10 discharged into the atmosphere from the direct heating equipment any gases that:

63.11 (1) contain the sum of filterable and organic condensable particulate matter  
63.12 in excess of the limits allowed by parts 7011.0700 to 7011.0735; or

63.13 [For text of subitem (2), see M.R.]

63.14 [For text of item B, see M.R.]

63.15 [For text of subp 2, see M.R.]

63.16 **7011.0615 PERFORMANCE TEST METHODS.**

63.17 Unless another method is approved by the agency, any person required to submit  
63.18 performance tests for direct heating equipment must use the following test methods to  
63.19 demonstrate compliance:

63.20 A. Method 1 for selection of sampling site and sample traverses;

63.21 B. Method 3 for gas analysis;

63.22 C. Method 5 for concentration of filterable particulate matter and the associated  
63.23 moisture content and Method 202 for concentration of organic condensable particulate  
63.24 matter;

64.1 D. Method 6 for concentration of SO<sub>2</sub>; and

64.2 E. Method 9 for visual determination of opacity.

64.3 **7011.0620 PERFORMANCE TEST PROCEDURES.**

64.4 [For text of subps 1 and 2, see M.R.]

64.5 Subp. 3. **Sampling time for Methods 5 and 202.** For Methods 5 and 202, the  
64.6 sampling time for each run must be at least 60 minutes and the minimum sampling  
64.7 volume must be 0.85 dscm (30 dscf) except that owners or operators may, prior to testing,  
64.8 request approval from the commissioner for smaller sampling times or volumes, when  
64.9 necessitated by process variables or site-specific limitations.

64.10 [For text of subps 4 to 6, see M.R.]

64.11 **7011.0710 STANDARDS OF PERFORMANCE FOR PRE-1969 INDUSTRIAL**  
64.12 **PROCESS EQUIPMENT.**

64.13 Subpart 1. **Prohibited discharge of gases.** No owner or operator of any industrial  
64.14 process equipment that was in operation before July 9, 1969, shall cause to be discharged  
64.15 into the atmosphere from the industrial process equipment any gases that:

64.16 A. in any one hour contain the sum of filterable and organic condensable  
64.17 particulate matter in excess of the amount permitted in part 7011.0730 for the allocated  
64.18 process weight; provided that the owner or operator shall not be required to reduce the  
64.19 particulate matter emission below the concentration permitted in part 7011.0735 for the  
64.20 appropriate source gas volume; provided further that regardless of the mass emission  
64.21 permitted by part 7011.0730, the owner or operator shall not be permitted to emit the sum  
64.22 of filterable and organic condensable particulate matter in a concentration in excess of  
64.23 0.30 grains per standard cubic foot of exhaust gas; or

64.24 [For text of item B, see M.R.]

64.25 [For text of subps 2 and 3, see M.R.]

65.1 **7011.0715 STANDARDS OF PERFORMANCE FOR POST-1969 INDUSTRIAL**  
65.2 **PROCESS EQUIPMENT.**

65.3 Subpart 1. **Prohibited discharge of gases.** No owner or operator of any industrial  
65.4 process equipment that was not in operation before July 9, 1969, shall cause to be  
65.5 discharged into the atmosphere from the industrial process equipment any gases that:

65.6 A. in any one hour contain the sum of filterable and organic condensable  
65.7 particulate matter in excess of the amount permitted in part 7011.0730 for the allocated  
65.8 process weight; provided that the owner or operator shall not be required to reduce the  
65.9 particulate matter emission below the concentration permitted in part 7011.0735 for the  
65.10 appropriate source gas volume; provided that regardless of the mass emission permitted by  
65.11 part 7011.0730, the owner or operator shall not be permitted to emit the sum of filterable  
65.12 and organic condensable particulate matter in a concentration in excess of 0.30 grains  
65.13 per standard cubic foot of exhaust gas; or

65.14 B. exhibit greater than 20 percent opacity.

65.15 [For text of subps 2 and 3, see M.R.]

65.16 **7011.0720 PERFORMANCE TEST METHODS.**

65.17 Unless another method is approved by the agency, any owner or operator required  
65.18 to submit performance tests for any industrial process equipment must use the following  
65.19 test methods to demonstrate compliance:

65.20 A. Method 1 for sample and velocity traverses;

65.21 B. Method 2 for velocity and volumetric flow rate;

65.22 C. Method 3 for gas analysis;

65.23 D. Method 5 for the concentration of filterable particulate matter and associated  
65.24 moisture content and Method 202 for the concentration of organic condensables  
65.25 condensables; and

66.1 E. Method 9 for visual determination of the opacity of emissions from  
66.2 stationary sources.

66.3 **7011.0905 STANDARDS OF PERFORMANCE FOR EXISTING HOT MIX**  
66.4 **ASPHALT PLANTS.**

66.5 No owner or operator of an existing hot mix asphalt plant shall cause to be discharged  
66.6 into the atmosphere from the hot mix asphalt plant any gases that:

66.7 A. contain the sum of filterable and organic condensable particulate matter in  
66.8 excess of the limits allowed by parts 7011.0700 to 7011.0735; or

66.9 B. exhibit greater than 20 percent opacity.

66.10 **7011.1105 STANDARDS OF PERFORMANCE FOR CERTAIN COAL**  
66.11 **HANDLING FACILITIES.**

66.12 The owner or operator of any new coal handling facility, or an existing coal handling  
66.13 facility located within the Minneapolis-Saint Paul Air Quality Control Region or within  
66.14 the boundaries of the city of Duluth, ~~shall~~ must perform the following abatement measures  
66.15 unless otherwise exempt by portions of these parts:

66.16 [For text of items A to E, see M.R.]

66.17 F. Stockpiles, stockpile construction, and reclaiming.

66.18 (1) Control fugitive particulate emissions by dust suppression methods on  
66.19 such operations so that fugitive particulate emissions are minimized.

66.20 (2) In the alternative, use an underground bottom feed (plow) of coal to  
66.21 an underground conveyor system provided the exhaust gases from the enclosed spaces  
66.22 do not contain filterable particulate matter in excess of 0.020 grains per dry standard  
66.23 cubic foot (gr/dscf).

66.24 G. Enclosed coal handling facilities or emissions units not specifically covered  
66.25 by any other provision in parts 7011.1100 to 7011.1140. If exhaust gases from any

67.1 enclosed coal handling facility exceed 20 percent opacity, then the owner or operator of  
67.2 the facility must select and implement one of the following further controls:

67.3 (1) install exhaust air system and control exhaust gases so that filterable  
67.4 particulate emissions in such gases do not exceed 0.020 gr/dscf;

67.5 (2) control exhaust gases using dust suppression methods so that particulate  
67.6 emissions do not exhibit greater than 20 percent opacity.

67.7 [For text of items H and I, see M.R.]

67.8 **7011.1115 STANDARDS OF PERFORMANCE FOR PNEUMATIC**  
67.9 **COAL-CLEANING EQUIPMENT AND THERMAL DRYERS AT ANY COAL**  
67.10 **HANDLING FACILITY.**

67.11 Subpart 1. **Pneumatic coal-cleaning equipment.** The owner or operator of a coal  
67.12 handling facility shall not cause to be discharged into the atmosphere from any pneumatic  
67.13 coal-cleaning equipment any gases that:

67.14 A. contain filterable particulate matter in excess of 0.040 g/dscm (0.018  
67.15 gr/dscf); or

67.16 B. exhibit ten percent opacity or greater.

67.17 Subp. 2. **Thermal dryers.** The owner or operator of a coal handling facility shall not  
67.18 cause to be discharged into the atmosphere from any thermal dryer any gases that:

67.19 A. contain filterable particulate matter in excess of 0.070 g/dscm (0.031  
67.20 gr/dscf); or

67.21 B. exhibit 20 percent opacity or greater.

67.22 [For text of subps 3 and 4, see M.R.]

68.1 **7011.1130 PERFORMANCE TEST METHOD.**

68.2 Unless another method is approved by the commissioner, an owner or operator  
68.3 required to submit performance tests for coal handling facilities must use the following  
68.4 test methods to demonstrate compliance:

68.5 A. Method 1 for sample and velocity traverses;

68.6 B. Method 5 for the concentration of filterable particulate material and moisture  
68.7 content;

68.8 C. Method 9 for the visual determination of the opacity of emission from  
68.9 stationary sources.

68.10 **7011.1135 PERFORMANCE TEST PROCEDURES.**

68.11 Subpart 1. **In general.** Performance tests ~~shall~~ must be conducted according to the  
68.12 requirements of this part and parts 7017.2001 to 7017.2060.

68.13 Subp. 2. **Special procedures.** For Method 5, the sampling time for each run ~~shall~~  
68.14 must be at least 60 minutes and the minimum sampling volume ~~shall~~ must be 0.85 dscm  
68.15 (30 dscf) except that owners or operators may, prior to testing, request approval from  
68.16 the commissioner for smaller sampling times or volumes, when necessitated by process  
68.17 variables or site-specific limitations. Sampling ~~shall~~ must not be started until at least 30  
68.18 minutes after ~~start-up~~ start-up and ~~shall~~ must be terminated before shutdown procedures  
68.19 commence. The owner or operator ~~shall~~ must eliminate cyclonic flow during performance  
68.20 tests.

68.21 **7011.1227 TABLE 1.**

68.22 The table in this part governs emission limitations for Class A and C waste combustor  
68.23 units. For acid gas limitations, either the applicable percent reduction or the parts per  
68.24 million by volume emission limitation, whichever is less stringent, is the emission  
68.25 limitation for the waste combustor.



69.1		Class C	Class A
69.2	Particulate Matter		
69.3	Filterable		0.011 gr/dscf
69.4	The sum of filterable and organic	0.020 gr/dscf	0.020 gr/dscf
69.5	condensable		
69.6	PCDD/PCDF		
69.7	Total	500 ng/dscm	30 ng/dscm
69.8	Acid Gases:		
69.9	Hydrogen chloride	NA	95% control or 29 ppm
69.10	Sulfur dioxide	NA	75% control or 29 ppm
69.11	Carbon Monoxide		
69.12	Modular starved air	50 ppm	50 ppm
69.13	Modular excess air	50 ppm	50 ppm
69.14	Mass burn waterwall	100 ppm	100 ppm
69.15	Mass burn refractory	100 ppm	100 ppm
69.16	Mass burn rotary refractory	100 ppm	100 ppm
69.17	Mass burn rotary waterwall	250 ppm	250 ppm
69.18	Bubbling fluidized bed	100 ppm	100 ppm
69.19	Circulating fluidized bed	100 ppm	100 ppm
69.20	Pulverized coal/refuse-derived	NA	150 ppm
69.21	fuel mixed fuel-fired combustor		
69.22	Spreader stoker	NA	200 ppm
69.23	coal/refuse-derived fuel mixed		
69.24	fuel-fired combustor		
69.25	RDF stoker	150 ppm	200 ppm
69.26	Opacity	10%	10%
69.27	Mercury (short-term)		
69.28	For all waste combustors	100 µg/dscm or 85%	50 µg/dscm or 85%
69.29		removal	removal

70.1	Mercury (long-term)		
70.2	For all waste combustors except	60 µg/dscm or 85%	50 µg/dscm or 85%
70.3	those combusting RDF in	removal	removal
70.4	spreader stokers		
70.5	Waste combustor units	NA	30 µg/dscm or 85%
70.6	combusting RDF in spreader		removal
70.7	stokers (90-day test interval)		
70.8	Waste combustor units	NA	30 µg/dscm or 85%
70.9	combusting RDF in spreader		removal
70.10	stokers (12-month test interval)		
70.11	Cadmium	NA	35 µg/dscm
70.12	Lead	NA	400 µg/dscm

70.13 **7011.1229 TABLE 2.**

70.14 The table in this part governs emission limitations for a Class II waste combustor.

70.15 For acid gas limitations, either the applicable percent reduction or the parts per million

70.16 by volume emission limitation, whichever is less stringent, is the emission limitation

70.17 for the waste combustor.

70.18	Size	Class II
70.19	Particulate Matter	
70.20	Filterable	0.015 gr/dscf
70.21	The sum of filterable and organic	
70.22	condensable	0.020 gr/dscf
70.23	PCDD/PCDF	
70.24	(total)	30 ng/dscm
70.25	Acid Gases	
70.26	HCl	90% control or 25 ppm
70.27	SO <sub>2</sub>	80% control or 30 ppm
70.28	Carbon monoxide	
70.29	Modular	50 ppm

71.1	Mass burn or fluidized bed	100 ppm
71.2	RDF stoker	150 ppm
71.3	Opacity	10%
71.4	NO <sub>x</sub>	NA
71.5	Mercury (short-term)	
71.6	Modular	100 µg/dscm or 85% removal
71.7	Mass Burn	100 µg/dscm or 85% removal
71.8	RDF (90-day test interval)	50 µg/dscm or 85% removal
71.9	FBC	100 µg/dscm or 85% removal
71.10	Mercury (long-term)	
71.11	Modular	60 µg/dscm or 85% removal
71.12	Mass burn	60 µg/dscm or 85% removal
71.13	RDF (90-day test interval)	30 µg/dscm or 85% removal
71.14	FBC	60 µg/dscm or 85% removal
71.15	RDF (12-month test interval)	30 µg/dscm or 85% removal

71.16 **7011.1231 TABLE 3.**

71.17 The table in this part governs emission limitations for Class III waste combustors.

71.18	Size	Class III
71.19	Particulate Matter	
71.20	The sum of filterable and organic	0.020 gr/dscf
71.21	condensable	
71.22	PCDD/PCDF	
71.23	Total	60 ng/dscm
71.24	Carbon monoxide	
71.25	Modular	50 ppm
71.26	RDF	275 ppm
71.27	Opacity	10%
71.28	Mercury	

72.1	Short-term	500 µg/dscm or 85%
72.2		removal
72.3	Long-term	300 µg/dscm or 85%
72.4		removal

72.5 **7011.1233 TABLE 4.**

72.6 The table in this part governs emissions from Class IV waste combustors.

72.7	Use	Metal Recovery
72.8	Particulate Matter	
72.9	The sum of filterable and organic	
72.10	condensable	0.035 gr/dscf
72.11	Opacity	20%
72.12	Carbon Monoxide	50 ppm

72.13 **7011.1265 REQUIRED PERFORMANCE TESTS, METHODS, AND**  
 72.14 **PROCEDURES.**

72.15 [For text of subp 1, see M.R.]

72.16 Subp. 2. **Performance test methods for criteria pollutants.** An owner or operator  
 72.17 of a waste combustor required to conduct performance tests for particulate matter, sulfur  
 72.18 dioxide, or nitrogen oxides ~~shall~~ must use test methods as described in items A to D.

72.19 A. For particulate matter, except that for Class I, II, A, and C waste combustors,  
 72.20 the minimum sample volume ~~shall~~ must be 1.7 dscm, and the probe and filter holder  
 72.21 heating systems in the sample train ~~shall~~ must be set to provide a gas temperature no  
 72.22 greater than 160 degrees Celsius, plus or minus 14 degrees. For Class III and IV waste  
 72.23 combustors, the minimum sample volume ~~shall~~ must be 0.85 dscm. Owners or operators  
 72.24 may request approval for smaller sampling times or volumes from the commissioner prior  
 72.25 to testing, when necessitated by process variables or site-specific limitations. An oxygen  
 72.26 or carbon dioxide measurement ~~shall~~ must be obtained simultaneously with each Method

73.1 5 test run for particulate matter. Particulate matter emissions, expressed in gr/dscf, ~~shall~~  
73.2 must be corrected to seven percent oxygen by using the following formula:

$$\begin{array}{l} 73.3 \qquad \qquad \qquad 14c \\ 73.4 \qquad \qquad \qquad c_7 = \frac{\qquad \qquad \qquad}{\qquad \qquad \qquad} \\ 73.5 \qquad \qquad \qquad (21-\%O_2) \end{array}$$

73.6 where:  $c_7$  is the concentration of particulate matter corrected to seven percent oxygen;  
73.7  $c$  is the concentration of particulate matter as measured by Code of Federal  
73.8 Regulations, title 40, part 60, Appendix A-3, Method 5 and Code of Federal Regulations,  
73.9 title 40, part 51, Appendix M, Method 202; and  
73.10  $\%O_2$  is the percentage of oxygen as measured by Code of Federal Regulations, title  
73.11 40, part 60, Appendix A-2, Method 3, as amended.

73.12 (1) Filterable particulate matter emission is the concentration of particulate  
73.13 matter as measured by Code of Federal Regulations, title 40, part 60, Appendix A-3,  
73.14 Method 5, as amended.

73.15 (2) The sum of filterable and organic condensable particulate matter is the  
73.16 concentration of particulate matter as described in part 7017.2060, subpart 3, item B.

73.17 For each sample run employing Method 5 as provided in Appendix A-3 of Code of  
73.18 Federal Regulations, title 40, part 60, Appendix A-3, Method 5, as amended, run, the  
73.19 emission rate ~~shall~~ must be determined using:

- 73.20 (a) oxygen or carbon dioxide measurements;
- 73.21 (b) dry basis F factor; and
- 73.22 (c) dry basis emission rate calculation procedures in Code of Federal  
73.23 Regulations, title 40, part 60, Appendix A-7, Method 19, as amended.

73.24 [For text of items B to D, see M.R.]

73.25 [For text of subps 3 to 11, see M.R.]

**7011.1270 PERFORMANCE TEST, WASTE COMPOSITION STUDY, AND ASH SAMPLING FREQUENCY.**

The owner or operator of a waste combustor shall conduct the performance tests required in part 7011.1265, subpart 5, based on the schedules in items A to E.

A. Class A waste combustors shall conduct performance tests as described in subitems (1) to (6).

[For text of subitems (1) to (4), see M.R.]

(5) From Class A waste combustors that are not burning RDF, for mercury emissions every three months.

The facility may implement testing for mercury not less than once every 12 months under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility's permitted long-term limit for three consecutive years; ~~and the owner or operator has submitted a request for an administrative amendment according to the procedures of part 7007.1400.~~

Waste combustors combusting RDF may choose to conduct performance tests for mercury every 12 months. If a test shows that an emission limit for mercury from a waste combustor combusting RDF is exceeded, the commissioner shall require testing every three months thereafter until compliance with the standard is demonstrated.

(6) A waste composition study every five years.

B. Class II and C waste combustors shall conduct performance tests as described in subitems (1) to (4).

(1) Once within the normal start-up, except as provided in subitem (3)(b).

[For text of subitem (2), see M.R.]

(3) For mercury emissions, Class C waste combustors shall commence testing June 20, 1995, and continue testing every 90 days until August 1, 1997. Thereafter,

75.1 Class C waste combustors that are not burning RDF shall conduct mercury emissions  
75.2 testing every three months.

75.3 The facility may implement testing for mercury not less than once every three years  
75.4 or according to federal applicable requirements, whichever is more stringent, under the  
75.5 following conditions: the facility has demonstrated that mercury emissions have been  
75.6 below 50 percent of the facility's permitted long-term limit for three consecutive years;  
75.7 ~~and the owner or operator has submitted a request for an administrative amendment~~  
75.8 ~~according to the procedures of part 7007.1400.~~

75.9 If a facility is granted testing for mercury not less than once every three years or  
75.10 according to federal applicable requirements, whichever is more stringent, and a mercury  
75.11 performance test shows mercury emissions greater than 50 percent of the facility's permitted  
75.12 mercury limit, the facility shall conduct annual mercury stack sampling until emissions are  
75.13 below 50 percent of the facility's permitted mercury limit. Once the facility demonstrates  
75.14 that mercury emissions are again below 50 percent of the facility's permitted limit, the  
75.15 facility may resume testing every three years, upon notifying the commissioner in writing.

75.16 Waste combustors combusting RDF may choose to conduct performance tests for  
75.17 mercury emissions every 12 months. If a test shows that emission limits for mercury  
75.18 from a waste combustor combusting RDF are exceeded, the commissioner shall require  
75.19 performance testing every three months until compliance is demonstrated.

75.20 (4) A waste composition study every five years.

75.21 C. Class III and D waste combustors shall conduct performance tests as  
75.22 described in subitems (1) to (6).

75.23 [For text of subitems (1) and (2), see M.R.]

75.24 (3) For Class III waste combustors, emissions of mercury, every three  
75.25 months.

76.1 The facility may implement testing for mercury not less than once every three years  
76.2 or according to federal applicable requirements, whichever is more stringent, under the  
76.3 following conditions: the facility has demonstrated that mercury emissions have been  
76.4 below 50 percent of the facility's permitted long-term limit for three consecutive years;  
76.5 ~~and the owner or operator has submitted a request for an administrative amendment~~  
76.6 ~~according to the procedures of part 7007.1400.~~

76.7 If a facility is granted testing for mercury not less than once every three years or  
76.8 according to federal applicable requirements, whichever is more stringent, and mercury  
76.9 performance test shows mercury emissions greater than 50 percent of the facility's permitted  
76.10 mercury limit, the facility shall conduct annual mercury stack sampling until emissions are  
76.11 below 50 percent of the facility's permitted mercury limit. Once the facility demonstrates  
76.12 that mercury emissions are again below 50 percent of the facility's permitted limit, the  
76.13 facility may resume testing every three years, upon notifying the commissioner in writing.

76.14 [For text of subitems (4) to (6), see M.R.]

76.15 [For text of item D, see M.R.]

76.16 E. Class I waste combustors shall conduct performance tests for mercury  
76.17 emissions every three months for waste combustors that are not burning RDF.

76.18 The facility may implement testing for mercury not less than once every 12 months  
76.19 under the following conditions: the facility has demonstrated that mercury emissions have  
76.20 been below 50 percent of the facility's permitted long-term limit for three consecutive  
76.21 years; ~~and the owner or operator has submitted a request for an administrative amendment~~  
76.22 ~~according to the procedures of part 7007.1400.~~

76.23 Waste combustors combusting RDF may choose to conduct performance tests for  
76.24 mercury every 12 months. If a test shows that an emission limit for mercury from a waste  
76.25 combusting RDF is exceeded, the commissioner shall require testing every three months  
76.26 thereafter until compliance with the standard is demonstrated.



77.1 Class I waste combustors shall conduct a waste composition study every five years.

77.2 **7011.1280 OPERATOR CERTIFICATION.**

77.3 [For text of subps 1 to 4, see M.R.]

77.4 **Subp. 5. Examinations.**

77.5 A. The commissioner must approve an examination for the different classes  
77.6 of waste combustors and must not delegate this responsibility. The examination must be  
77.7 administered as a written closed book examination.

77.8 [For text of items B to E, see M.R.]

77.9 [For text of subp 6, see M.R.]

77.10 **Subp. 7. Renewal.**

77.11 A. A certified individual shall apply for certificate renewal no later than 30  
77.12 days prior to certificate expiration. The application for renewal must include evidence  
77.13 that the person has, during the preceding three years, earned credit for attending training  
77.14 courses in the direct operation and maintenance of and environmental compliance for  
77.15 a waste combustor, including personnel training described in part 7011.1275, for the  
77.16 number of hours as identified as follows:

77.17 (1) Class I, II, III, A, or C, ~~or D~~, 24 hours; and

77.18 (2) Class IV, eight hours.

77.19 An individual whose certificate has expired must comply with item B or C to renew  
77.20 the certificate.

77.21 B. If an individual applies for certificate renewal within one year following  
77.22 the expiration of the certificate, ~~the commissioner may renew the certificate without~~  
77.23 ~~examination. To be recertified without an examination,~~ the individual must meet the  
77.24 training requirements of item A or subpart 3 at the time of application for renewal before

78.1 the certificate will be renewed without an examination. ~~If the individual does not have~~  
78.2 ~~training to meet the requirements of item A, the individual must comply with subpart 3.~~

78.3 C. If an individual applies for certificate renewal more than one year following  
78.4 the expiration of the certificate, the individual is eligible for recertification when the  
78.5 individual complies with subpart 3.

78.6 Subp. 8. [See repealer.]

78.7 [For text of subps 9 and 10, see M.R.]

78.8 Subp. 11. **Record keeping.** A waste combustor owner or operator shall maintain a  
78.9 record of personnel who complete either the Environmental Protection Agency municipal  
78.10 waste combustor operator training course, or an equivalent course. The record shall  
78.11 include documentation of training completion.

78.12 **7011.1282 CERTIFIED MUNICIPAL WASTE COMBUSTOR EXAMINER**  
78.13 **CERTIFICATE.**

78.14 [For text of subp 1, see M.R.]

78.15 Subp. 2. **Certification process for a certified municipal waste combustor**  
78.16 **examiner.**

78.17 A. When the commissioner determines that the applicant has submitted  
78.18 a complete application, and has determined that the applicant has demonstrated a  
78.19 satisfactory compliance history as an operator at a municipal waste combustor, the  
78.20 commissioner shall schedule an oral examination of the applicant.

78.21 [For text of item B, see M.R.]

78.22 Subp. 3. **Examination for certified municipal waste combustor examiner.**

78.23 [For text of items A and B, see M.R.]

79.1 C. The board of examiners consists of three members. The three members  
79.2 are a member of the municipal waste combustor industry, a member who is or has  
79.3 been employed at a power operation facility using combustion or air pollution control  
79.4 technologies comparable to the facility where the applicant is employed, and a member  
79.5 able to discharge the functions of the board of examiners, under the conditions specified  
79.6 by the commissioner.

79.7 The commissioner may appoint additional board members if the facility for which  
79.8 the applicant seeks certification is complex and the commissioner determines that  
79.9 additional examiners will help the board determine the applicant's technical knowledge,  
79.10 problem-solving ability, and understanding of plant operations.

79.11 Additional Pollution Control Agency representatives, a representative from the  
79.12 facility, a representative of an industry trade group, or a member of the public shall be  
79.13 allowed by the commissioner to observe the examination.

79.14 [For text of subps 4 and 5, see M.R.]

79.15 **7011.1305 STANDARDS OF PERFORMANCE FOR EXISTING SEWAGE**  
79.16 **SLUDGE INCINERATORS.**

79.17 No owner or operator of an existing sewage sludge incinerator shall allow to be  
79.18 discharged into the atmosphere from the sewage sludge incinerator any gases that:

79.19 A. contain filterable particulate matter in excess of 0.3 gr/dscf corrected to 12  
79.20 percent CO<sub>2</sub> if the incinerator has a burning capacity of less than 200 pounds per hour;

79.21 B. contain filterable particulate matter in excess of 0.2 gr/dscf corrected to 12  
79.22 percent CO<sub>2</sub> if the incinerator has a burning capacity of 200 to 2,000 pounds per hour;

79.23 C. contain filterable particulate matter in excess of 0.1 gr/dscf corrected to 12  
79.24 percent CO<sub>2</sub> if the incinerator has a burning capacity of greater than 2,000 pounds per hour.

79.25 No owner or operator of an existing sewage sludge incinerator shall cause to be  
79.26 discharged into the atmosphere from the incinerator any gases that exhibit greater than 20

80.1 percent opacity, except for one six-minute period per hour of not more than 33 percent  
80.2 opacity. An exceedance of this opacity standard occurs whenever any one-hour period  
80.3 contains two or more six-minute periods during which the average opacity exceeds 20  
80.4 percent or whenever any one-hour period contains one or more six-minute periods during  
80.5 which the average opacity exceeds 33 percent.

80.6 No owner or operator of an existing sewage sludge incinerator shall operate the  
80.7 incinerator unless the incinerator uses auxiliary fuel burners that maintain a minimum  
80.8 temperature of 1,200 degrees Fahrenheit for a minimum retention time of 0.3 second or  
80.9 other method of odor control as approved by the commissioner.

80.10 For the purposes of this part, "existing sewage sludge incinerator" means a sewage  
80.11 sludge incinerator on which construction, modification, or reconstruction did not  
80.12 commence after June 11, 1973.

80.13 **7011.1310 STANDARDS OF PERFORMANCE FOR NEW SEWAGE SLUDGE**  
80.14 **INCINERATORS.**

80.15 No owner or operator of a new sewage sludge incinerator shall allow to be discharged  
80.16 into the atmosphere from the incinerator any gases that:

80.17 A. contain filterable particulate matter in excess of 0.65 g/kg dry sludge input  
80.18 (1.30 lb/ton dry sludge input); or

80.19 B. exhibit 20 percent opacity or greater.

80.20 No owner or operator of a new sewage sludge incinerator shall operate the incinerator  
80.21 unless the incinerator uses auxiliary fuel burners that maintain a minimum temperature of  
80.22 1,200 degrees Fahrenheit for a minimum retention time of 0.3 second or other method of  
80.23 odor control as approved by the commissioner.

80.24 For the purposes of this part, "new sewage sludge incinerator" means a sewage sludge  
80.25 incinerator on which construction, modification, or reconstruction commenced after June  
80.26 11, 1973.

81.1 **7011.1320 PERFORMANCE TEST METHODS.**

81.2 Unless another method is approved by the agency, an owner or operator required to  
81.3 submit performance tests for a sewage sludge incinerator must use the following test  
81.4 methods to demonstrate compliance:

81.5 A. Method 1 for sample and velocity traverses;

81.6 B. Method 2 for volumetric flow rate;

81.7 C. Method 3 for gas analysis; and

81.8 D. Method 5 for concentration of filterable particulate matter and associated  
81.9 moisture content.

81.10 **7011.1400 DEFINITIONS.**

81.11 [For text of subps 1 to 10, see M.R.]

81.12 Subp. 11. **Process gas.** "Process gas" means any gas generated by a petroleum  
81.13 refinery process unit, except fuel gas.

81.14 Subp. 12. [See repealer.]

81.15 [For text of subps 13 and 14, see M.R.]

81.16 **7011.1405 STANDARDS OF PERFORMANCE FOR EXISTING AFFECTED**  
81.17 **FACILITIES AT PETROLEUM REFINERIES.**

81.18 Subpart 1. **Fluid catalytic cracking unit catalyst regenerator and**  
81.19 **incinerator-waste heat boiler.** No owner or operator of an existing fluid catalytic  
81.20 cracking unit catalyst regenerator or its incinerator-waste heat boiler at a petroleum  
81.21 refinery shall allow to be discharged into the atmosphere from the regenerator or its  
81.22 incinerator-waste heat boiler any gases that:

81.23 A. contain filterable particulate matter in excess of 10.0 lb/1000 lb (10.0  
81.24 kg/1000 kg) of coke burn-off in the catalyst regenerator; or

82.1 [For text of item B, see M.R.]

82.2 Subp. 2. **Fuel gas combustion device and indirect heating equipment.** Flares  
82.3 subject to the conditions of Code of Federal Regulations, title 40, part 60, subpart Ja,  
82.4 are not subject to the limits of this subpart. No owner or operator of existing fuel gas  
82.5 combustion devices and indirect heating equipment at a petroleum refinery shall cause  
82.6 to be discharged into the atmosphere from such devices and equipment any gases which  
82.7 contain sulfur dioxide in excess of 1.75 pounds per million Btu (3.15 grams per million  
82.8 cal) heat input. The total emissions of sulfur dioxide from all existing fuel gas combustion  
82.9 devices and all indirect heating equipment shall be divided by the total heat input of all  
82.10 such devices and equipment to determine compliance with this section; provided that no  
82.11 owner or operator shall cause to be discharged from any one fuel gas combustion device  
82.12 or any one unit of indirect heating equipment any gases which contain sulfur dioxide in  
82.13 excess of 3.0 pounds per million Btu (5.4 grams per million cal) heat input.

82.14 Subp. 3. **Indirect heating equipment.** The standards of performance in parts  
82.15 7011.0500 to 7011.0530 for indirect heating equipment do not apply to indirect heating  
82.16 equipment at a petroleum refinery. Only the standards of performance for indirect heating  
82.17 equipment in this part apply to indirect heating equipment. No owner or operator of  
82.18 existing indirect heating equipment at a petroleum refinery shall allow to be discharged  
82.19 into the atmosphere from the equipment any gases that:

82.20 A. contain filterable particulate matter in excess of 0.4 pounds per million Btu  
82.21 (0.72 grams per million cal) heat input; or

82.22 [For text of item B, see M.R.]

82.23 [For text of subp 4, see M.R.]

83.1 **7011.1410 STANDARDS OF PERFORMANCE FOR NEW AFFECTED**  
83.2 **FACILITIES AT PETROLEUM REFINERIES.**

83.3 Subpart 1. **Fluid catalytic cracking unit catalyst regenerator and**  
83.4 **incinerator-waste heat boiler.** No owner or operator of a new fluid catalytic cracking  
83.5 unit catalyst regenerator or its incinerator-waste heat boiler at a petroleum refinery shall  
83.6 allow to be discharged into the atmosphere from the regenerator or incinerator-waste  
83.7 heat boiler any gases that:

83.8 A. contain filterable particulate matter in excess of 1.0 lb/1000 lb (1.0 kg/1000  
83.9 kg) of coke burn-off in the catalyst regenerator; or

83.10 [For text of item B, see M.R.]

83.11 Subp. 2. **Fuel gas combustion device.** Flares subject to the conditions of Code  
83.12 of Federal Regulations, title 40, part 60, subpart Ja, are not subject to the limits of this  
83.13 subpart. No owner or operator of a new fuel gas combustion device at a petroleum refinery  
83.14 shall burn in any such device any fuel gas which contains H<sub>2</sub>S in excess of 0.10 gr/dscf,  
83.15 (230 mg/dscm) except as provided herein. The owner or operator may elect to treat the  
83.16 gases resulting from the combustion of fuel gas in a manner which limits the release of SO<sub>2</sub>  
83.17 to the atmosphere if it is shown to the satisfaction of the commissioner that this prevents  
83.18 SO<sub>2</sub> emissions as effectively as compliance with the H<sub>2</sub>S restriction set forth above.

83.19 Subp. 3. **Indirect heating equipment.** The standards of performance in parts  
83.20 7011.0500 to 7011.0530 for indirect heating equipment do not apply to indirect heating  
83.21 equipment at a petroleum refinery. Only the standards of performance for indirect heating  
83.22 equipment in this subpart apply to indirect heating equipment.

83.23 [For text of item A, see M.R.]

83.24 B. No owner or operator of new indirect heating equipment at a petroleum  
83.25 refinery shall allow to be discharged into the atmosphere from the equipment any gases that:

84.1 (1) contain filterable particulate matter in excess of 0.4 pounds per million  
84.2 Btu (0.72 grams per million cal) heat input; or

84.3 [For text of subitem (2), see M.R.]

84.4 C. The owner or operator of a new steam generating unit of more than 250  
84.5 million Btu per hour (63 million cal per hour) heat input at a petroleum refinery shall  
84.6 comply with the following requirements:

84.7 (1) No gases shall be discharged from the steam generating unit that  
84.8 contain filterable particulate matter in excess of 0.1 pounds per million Btu (0.18 grams  
84.9 per million cal) heat input.

84.10 [For text of subitems (2) and (3), see M.R.]

84.11 [For text of subp 4, see M.R.]

84.12 **7011.1425 PERFORMANCE TEST METHODS.**

84.13 Subpart 1. **In general.** Unless another method is approved by the commissioner, a  
84.14 person required to submit performance tests for a petroleum refinery must use the test  
84.15 methods in this part to demonstrate compliance.

84.16 Subp. 2. **Gases released to atmosphere from fluid catalytic cracking unit catalyst**  
84.17 **regenerator.** For gases released to the atmosphere from the fluid catalytic cracking unit  
84.18 catalyst regenerator:

84.19 A. Method 1 for sample and velocity traverses;

84.20 B. Method 2 for velocity and volumetric flow rate;

84.21 C. Method 5 for the concentration of filterable particulate matter and moisture  
84.22 content;

84.23 D. Method 9 for visual determination of the opacity of emissions from  
84.24 stationary sources;



85.1 E. Method 10 for carbon monoxide.

85.2 [For text of subps 3 and 4, see M.R.]

85.3 Subp. 5. **Gases to atmosphere from combustion.** For gases released to the  
85.4 atmosphere from the combustion of fuel gas, fossil fuel, and the combination of fuel  
85.5 gas and fossil fuel:

85.6 A. Method 1 for sample and velocity traverses;

85.7 B. Method 2 for velocity and volumetric flow rate;

85.8 C. Method 5 for the concentration of filterable particulate matter and moisture  
85.9 content;

85.10 D. Method 6 for concentration of SO<sub>2</sub>;

85.11 E. Method 9 for visual determination of the opacity of emissions from  
85.12 stationary sources.

85.13 **7011.1435 INCORPORATION BY REFERENCE OF NEW SOURCE**  
85.14 **PERFORMANCE STANDARDS BY REFERENCE.**

85.15 The following New Source Performance Standards are adopted and incorporated  
85.16 by reference:

85.17 A. Code of Federal Regulations, title 40, part 60, subpart J, as amended, entitled  
85.18 "Standards of Performance for Petroleum Refineries," except that decisions made by the  
85.19 administrator under Code of Federal Regulations, title 40, sections 60.105(a)(13)(iii) and  
85.20 60.106(i)(12), are not delegated to the commissioner and must be made by the administrator.

85.21 B. Code of Federal Regulations, title 40, part 60, subpart GGG, as amended,  
85.22 entitled "Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries,"  
85.23 except that decisions made by the administrator under Code of Federal Regulations, title  
85.24 40, section 60.592(c), are not delegated to the commissioner and must be made by the  
85.25 administrator.

C. Code of Federal Regulations, title 40, part 60, subpart QQQ, as amended, entitled "Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.694, are not delegated to the commissioner and must be made by the administrator.

D. Code of Federal Regulations, title 40, part 60, subpart Ja, as amended, entitled "Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.109a(b), are not delegated to the commissioner and must be made by the administrator.

E. Code of Federal Regulations, title 40, part 60, subpart GGGa, as amended, entitled "Standards of Performance for Equipment Leaks of VOC at Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006."

**7011.1730 INCORPORATION BY REFERENCE OF NEW SOURCE PERFORMANCE STANDARDS BY REFERENCE.**

A. Code of Federal Regulations, title 40, part 60, subpart G, as amended, entitled "Standards of Performance for Nitric Acid Plants," is adopted and incorporated by reference.

B. Code of Federal Regulations, title 40, part 60, subpart Ga, as amended, entitled "Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011," is incorporated by reference.

**7011.1905 STANDARDS OF PERFORMANCE FOR SECONDARY BRASS AND BRONZE INGOT PRODUCTION PLANTS.**

No owner or operator of a secondary brass or bronze ingot production plant shall allow to be discharged into the atmosphere from a reverberatory furnace any gases that:

87.1 A. contain filterable particulate matter in excess of 50 mg/dscm (0.022 gr/dscf);

87.2 [For text of item B, see M.R.]

87.3 **7011.1910 PERFORMANCE TEST METHODS.**

87.4 Unless another method is approved by the agency, an owner or operator required  
87.5 to submit performance tests for a brass or bronze ingot production plant must use the  
87.6 following test methods to demonstrate compliance:

87.7 A. Method 1 for sample and velocity traverses;

87.8 B. Method 2 for velocity and volumetric flow rate;

87.9 C. Method 3 for gas analysis;

87.10 D. Method 5 for the concentration of filterable particulate matter and the  
87.11 associated moisture content.

87.12 **7011.2005 STANDARDS OF PERFORMANCE FOR IRON AND STEEL PLANTS.**

87.13 No owner or operator of an iron and steel plant shall allow to be discharged into  
87.14 the atmosphere from any basic oxygen process furnace any gases that contain filterable  
87.15 particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).

87.16 **7011.2010 PERFORMANCE TEST METHODS.**

87.17 Unless another method is approved by the agency, an owner or operator required to  
87.18 submit performance tests for an iron and steel plant must use the following test methods to  
87.19 demonstrate compliance:

87.20 A. Method 1 for sample and velocity traverses;

87.21 B. Method 2 for volumetric flow rate;

87.22 C. Method 3 for gas analysis;

87.23 D. Method 5 for concentration of filterable particulate matter and associated  
87.24 moisture content.

88.1 **7011.2300 STANDARDS OF PERFORMANCE FOR STATIONARY INTERNAL**  
88.2 **COMBUSTION ENGINES.**

88.3 [For text of subp 1, see M.R.]

88.4 **Subp. 2. Sulfur dioxide.**

88.5 A. No owner or operator of a stationary internal combustion engine shall allow  
88.6 to be discharged into the atmosphere from the engine any gases that contain sulfur dioxide  
88.7 in excess of 0.5 pounds per million Btu actual heat input unless an alternative limit is  
88.8 established in an air emission permit after demonstration through modeling of compliance  
88.9 with the sulfur dioxide standards in part 7009.0080.

88.10 B. No later than January 31, 2018, owners or operators of a stationary internal  
88.11 combustion engine must not allow any gases that contain sulfur dioxide in excess of  
88.12 0.0015 pounds per million Btu actual heat input to be discharged into the atmosphere from  
88.13 the engine unless the agency establishes an alternative sulfur dioxide emission limit in an  
88.14 air emission permit that includes a demonstration through modeling of compliance with  
88.15 the sulfur dioxide standards in part 7009.0080.

88.16 [For text of subp 3, see M.R.]

88.17 **7011.2375 INCORPORATION BY REFERENCE OF NEW SOURCE**  
88.18 **PERFORMANCE STANDARD FOR STATIONARY COMBUSTION TURBINES.**

88.19 Code of Federal Regulations, title 40, part 60, subpart KKKK, as amended, entitled  
88.20 "Standards of Performance for Stationary Combustion Turbines," is adopted and  
88.21 incorporated by reference, except that decisions made by the administrator under Code of  
88.22 Federal Regulations, title 40, section 60.737(b), are not delegated to the commissioner  
88.23 and must be made by the administrator.

89.1 **7011.2450 STANDARDS OF PERFORMANCE FOR NEW KRAFT PULP MILLS.**

89.2 A. Code of Federal Regulations, title 40, part 60, subpart BB, as amended,  
89.3 entitled "Standards of Performance for Kraft Pulp Mills," is adopted and incorporated  
89.4 by reference.

89.5 B. Code of Federal Regulations, title 40, part 60, subpart BBa, as amended,  
89.6 entitled "Standards of Performance for Kraft Pulp Mill Affected Sources for Which  
89.7 Construction, Reconstruction, or Modification Commenced After May 23, 2013," is  
89.8 adopted and incorporated by reference.

89.9 **7011.2900 INCORPORATION BY REFERENCE OF NEW SOURCE**  
89.10 **PERFORMANCE STANDARDS BY REFERENCE.**

89.11 The following New Source Performance Standards are adopted and incorporated  
89.12 by reference:

89.13 A. Code of Federal Regulations, title 40, part 60, subpart VV, as amended,  
89.14 entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic  
89.15 Chemicals Manufacturing Industry," except that decisions made by the administrator  
89.16 under Code of Federal Regulations, title 40, section 60.482-1(c)(2), are not delegated to  
89.17 the commissioner and must be made by the administrator.

89.18 B. Code of Federal Regulations, title 40, part 60, subpart III, as amended,  
89.19 entitled "Standards of Performance for Volatile Organic Compound (VOC) Emissions  
89.20 from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation  
89.21 Unit Processes," except that decisions made by the administrator under Code of Federal  
89.22 Regulations, title 40, section 60.613(e), are not delegated to the commissioner and must be  
89.23 made by the administrator.

89.24 C. Code of Federal Regulations, title 40, part 60, subpart NNN, as amended,  
89.25 entitled "Standards of Performance for Volatile Organic Compound (VOC) Emissions  
89.26 From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation

90.1 Operations," except that decisions made by the administrator under Code of Federal  
90.2 Regulations, title 40, section 60.663(e), are not delegated to the commissioner and must be  
90.3 made by the administrator.

90.4 D. Code of Federal Regulations, title 40, part 60, subpart VVa, as amended,  
90.5 entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic  
90.6 Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or  
90.7 Modification Commenced After November 7, 2006." With this incorporation, reporting  
90.8 requirements of Code of Federal Regulations, title 40, section 60.487a, remain unchanged.

90.9 **7011.7050 INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS**  
90.10 **AND PROCESS HEATERS; MAJOR SOURCES.**

90.11 Code of Federal Regulations, title 40, part 63, subpart DDDDD, as amended, entitled  
90.12 "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial,  
90.13 and Institutional Boilers and Process Heaters," is incorporated by reference, except that  
90.14 the authorities identified in Code of Federal Regulations, title 40, section 63.313(d)  
90.15 63.7570(b), are not delegated to the commissioner and are retained by the administrator.

90.16 **7011.7185 GASOLINE DISPENSING FACILITIES.**

90.17 Code of Federal Regulations, title 40, part 63, subpart CCCCC, as amended,  
90.18 entitled "National Emission Standards for Hazardous Air Pollutants for Source Category:  
90.19 Gasoline Dispensing Facilities," is adopted and incorporated by reference, except that the  
90.20 authorities identified in Code of Federal Regulations, title 40, part 63.11131 (c), are not  
90.21 delegated to the commissioner and are retained by the administrator.

90.22 ~~**7011.7630 PORTLAND CEMENT KILNS.**~~

90.23 ~~Code of Federal Regulations, title 40, part 63, subpart LLL, as amended, entitled~~  
90.24 ~~"National Emission Standards for Hazardous Air Pollutants From the Portland Cement~~  
90.25 ~~Manufacturing Industry," is adopted and incorporated by reference, except that the~~

91.1 ~~decisions made by the administrator under Code of Federal Regulations, title 40, section~~  
91.2 ~~63.1358 (c), are not delegated to the commissioner and must be made by the administrator.~~

91.3 **7017.1002 DEFINITIONS.**

91.4 [For text of subps 1 to 7, see M.R.]

91.5 Subp. 7a. **Grace period.** "Grace period" applies to monitor quality control audits  
91.6 and means a period of unit or stack operating hours beginning with the first unit or stack  
91.7 operating hour following the calendar quarter in which an audit was due. All operating  
91.8 hours apply toward the grace period regardless of whether the hours are consecutive.

91.9 [For text of subps 8 to 11, see M.R.]

91.10 Subp. 11a. **Quality assurance operating quarter.** "Quality assurance operating  
91.11 quarter" or "QA operating quarter" means a calendar quarter in which there are at least  
91.12 168 unit operating hours.

91.13 [For text of subp 12, see M.R.]

91.14 Subp. 13. **Stack operating hour.** "Stack operating hour" means a clock hour during  
91.15 which flue gases flow through a particular stack or duct for the entire hour or for any part  
91.16 of the hour. Clock hour has the meaning given in Code of Federal Regulations, title  
91.17 40, section 60.13 (h)(2)(i), as amended.

91.18 Subp. 14. **Unit operating hour.** "Unit operating hour" means a clock hour during  
91.19 which an emission unit operates for the entire hour or for any part of the hour. Clock hour  
91.20 has the meaning given in Code of Federal Regulations, title 40, section 60.13 (h)(2)(i), as  
91.21 amended.

91.22 **7017.1080 CERTIFICATION TEST REPORT REQUIREMENTS.**

91.23 Subpart 1. **Report required.** The owner or operator of the emission facility must  
91.24 prepare and submit a certification test report in a format specified by the commissioner. A  
91.25 report must be submitted for any certification test that was required, whether or not the test

92.1 data indicate compliance with the appropriate performance specifications, and whether or  
92.2 not the test was completed according to the approved test plan.

92.3 [For text of subp 2, see M.R.]

92.4 Subp. 3. [See repealer.]

92.5 [For text of subp 4, see M.R.]

92.6 **7017.1110 EXCESS EMISSIONS REPORTS.**

92.7 [For text of subp 1, see M.R.]

92.8 Subp. 2. **Contents of excess emissions report.** The excess emissions report must  
92.9 contain the information in items A to E.

92.10 [For text of items A to C, see M.R.]

92.11 D. Summary of the cylinder gas audit and relative accuracy test audit required  
92.12 by parts 7017.1180 and 7017.1220 if the audits were completed in the previous quarter.

92.13 E. If applicable, notifications of exceptions of applicability from audit  
92.14 frequencies as allowed in parts 7017.1170, subparts 4a and 5a, and 7017.1215.

92.15 **7017.1120 SUBMITTALS.**

92.16 Subpart 1. **Address.** The owner or operator of the facility must send all submittals  
92.17 required under parts 7017.1002 to 7017.1220 to the agency in a physical or electronic  
92.18 format as specified by the commissioner and to the address identified on the required  
92.19 form or as provided by the agency.

92.20 Subp. 2. [See repealer.]

92.21 Subp. 3. **Date.** Submittals must be postmarked or received by the date specified in  
92.22 the applicable regulation or compliance document.

92.23 Subp. 4. **Certification.** All submittals, except for certification test-plans and relative  
92.24 accuracy test audits notifications, must be accompanied by a certification statement in a



93.1 format specified by the commissioner and signed by a responsible official, pursuant to  
93.2 part 7007.0500, subpart 3.

93.3 **7017.1170 QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR**  
93.4 **CEMS.**

93.5 Subpart 1. [See repealer.]

93.6 Subp. 1a. **Applicability.** The quality assurance and control requirements in this  
93.7 part apply to each CEMS unless otherwise specified by another applicable standard. If  
93.8 multiple CEMS standards apply to a single CEMS unit, the requirements of all applicable  
93.9 standards must be met.

93.10 Subp. 2. **Quality assurance plan required.** The owner or operator of the facility  
93.11 must develop and implement a written quality assurance plan that covers each CEMS.  
93.12 The plan must be on site and available for inspection within 30 days after monitor  
93.13 certification. The plan must be revised as needed to keep the plan up to date with the  
93.14 facility's current policies and procedures. The plan must contain all of the information  
93.15 required by Code of Federal Regulations, title 40, part 60, appendix F, section 3, or Code  
93.16 of Federal Regulations, title 40, part 75, Appendix B, as amended. The plan must include  
93.17 the manufacturer's spare parts list for each CEMS and require that those parts be kept at  
93.18 the facility unless the commissioner gives written approval to exclude specific spare parts  
93.19 from the list. The commissioner may approve requested exclusions if the commissioner  
93.20 determines that it is not reasonable to keep a specific part on site after consideration of  
93.21 the consequences of a malfunction of the part, the likelihood of a malfunction, the time  
93.22 required to obtain the part, and other pertinent factors.

93.23 Subp. 3. **Daily calibration drift assessment and adjustment.** The facility owner  
93.24 or operator must conduct daily calibration drift assessments and make adjustments as  
93.25 needed according to the procedure listed in items A and B, Code of Federal Regulations,  
93.26 title 40, section 60.13(d)(1), or Code of Federal Regulations, title 40, part 75, Appendix

94.1 B, section 2.1, as amended, as applicable, for each pollutant concentration and diluent  
94.2 monitor. The calibration drift assessment must be conducted on each monitor range. The  
94.3 span value specified in the applicable requirement or compliance document must be used  
94.4 to determine the zero and span calibration points. If no span value is specified in the  
94.5 applicable requirement or compliance document, the owner or operator must use a span  
94.6 value equivalent to 1.5 times the emission limit.

94.7 [For text of items A and B, see M.R.]

94.8 Subp. 4. [See repealer.]

94.9 Subp. 4a. **Cylinder gas audit.**

94.10 A. The owner or operator must complete the initial cylinder gas audit (CGA)  
94.11 within 180 days following certification of the CEMS. The owner or operator must conduct  
94.12 subsequent CGAs on each concentration and diluent monitor on each CEMS no later  
94.13 than the end of every ~~other~~ second QA operating quarter, regardless of whether the  
94.14 quarters are consecutive ~~calendar~~ calendar quarters. ~~The audit must be performed,~~ according to  
94.15 Code of Federal Regulations, title 40, part 60, Appendix F, section 5.1.2, or Code of  
94.16 Federal Regulations, title 40, part 75, Appendix A, section 6.2, as amended. As part of  
94.17 each quarterly excess emission report, the owner or operator must submit notification of  
94.18 any exception to CGA frequency that it used during the reporting period. A CGA is not  
94.19 required during any ~~calendar half year~~ quarter in which a relative accuracy test audit was  
94.20 performed on the CEMS.

94.21 B. If the unit being monitored by the CEMS is not in operation on the CGA due  
94.22 date, the owner or operator has a grace period of 168 operating hours in which to perform  
94.23 a CGA on that monitor. If, at the end of the 168-operating-hour grace period, the CGA has  
94.24 not been completed, data from the CEMS is invalid beginning with the first unit operating  
94.25 hour following expiration of the grace period. Nothing in this subpart relieves the owners'

95.1 or operators' obligation to comply with quality assurance provisions imposed by other  
95.2 applicable standards or compliance documents.

95.3 C. The audit frequency in Code of Federal Regulations, title 40, part 60,  
95.4 Appendix F, as amended, applies only if the unit is subject to Code of Federal Regulations,  
95.5 title 40, part 60.

95.6 Subp. 5. [See repealer.]

95.7 Subp. 5a. **Relative accuracy test audits.** The owner or operator must complete  
95.8 relative accuracy test audits (RATAs) as required by this subpart.

95.9 A. RATAs must be conducted using the applicable procedures in Code of  
95.10 Federal Regulations, title 40, part 60, Appendix B, or Code of Federal Regulations, title  
95.11 40, part 75, Appendix A, sections 6.5 to 6.5.2.2, and Appendix B, sections 2.3.1.3 and  
95.12 2.3.1.4, as amended, as applicable.

95.13 B. The owner or operator must complete a RATA on each CEMS within 365  
95.14 days following certification of the CEMS. Subsequent RATAs must be conducted on each  
95.15 ~~monitor range of a CEMS~~ no later than the end of every fourth QA operating quarter,  
95.16 regardless of whether the operating quarters are consecutive ~~calendar quarters~~, unless  
95.17 the conditions in item C apply.

95.18 C. The owner or operator may conduct less frequent RATAs as described in  
95.19 subitems (1) and (2). The owner or operator must include notification of the reduced  
95.20 frequency or delay in performing a RATA to the commissioner in each quarterly excess  
95.21 emission report during which a RATA would have been due. Nothing in this subpart  
95.22 relieves the owners' or operators' obligation to comply with quality assurance provisions  
95.23 imposed by other applicable requirements or compliance documents.

95.24 (1) If a RATA demonstrates less than 75 percent of the performance  
95.25 specification under the applicable performance standard of Code of Federal Regulations,

96.1 title 40, part 60, Appendix B, as amended, the next RATA is due before the end of the  
96.2 sixth subsequent QA operating quarter.

96.3 (2) If the unit is not in operation at the RATA due date, the owner or  
96.4 operator has a grace period of 720 operating hours in which to perform a RATA on that  
96.5 monitor. If, at the end of the 720-operating-hour grace period, the RATA has not been  
96.6 completed, data from the CEMS is invalid beginning with the first unit operating hour  
96.7 following expiration of the grace period.

96.8 Subp. 6. **Criteria for excessive CEMS audit inaccuracy.** The criteria for excessive  
96.9 inaccuracy are:

96.10 A. for RATAs, the relative accuracy value specified in the appropriate  
96.11 Performance Specification of Code of Federal Regulations, title 40, part 60, Appendix B,  
96.12 and Code of Federal Regulations, title 40, part 75, Appendix A, section 3.3, as amended,  
96.13 as applicable; and

96.14 B. for CGAs, the average audit value must be within 15 percent of the cylinder  
96.15 gas value or five ppm, whichever is greater.

96.16 Subp. 7. **Calibration gases.** Gas mixtures must not be used after the manufacturer's  
96.17 certification expiration data. The expiration date must be clearly labeled on the container  
96.18 of each gas.

96.19 Subp. 8. **Out of control periods.** Data is not considered valid and may not be used  
96.20 for ~~emissions calculations~~ compliance demonstration during out of control periods as  
96.21 defined in part 7017.1002. The out of control period is considered downtime and the  
96.22 owner or operator must follow the requirements of Code of Federal Regulations, title 40,  
96.23 part 60, Appendix F, sections 4.3.2 and 5.2.2, as amended. An owner or operator may  
96.24 not apply the data substitution procedures in Code of Federal Regulations, title 40, part  
96.25 75, as amended, to comply with this part.

97.1 **7017.1215 QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR**  
97.2 **COMS.**

97.3 For quality assurance and control requirements for COMS, the facility owner or  
97.4 operator must conduct quality assurance and quality control as specified in Procedure  
97.5 3 - Quality Assurance Requirements for Continuous Opacity Monitoring Systems at  
97.6 Stationary Sources, Code of Federal Regulations, title 40, part 60, Appendix F, as  
97.7 amended, which is adopted and incorporated by reference.

97.8 **7017.2015 INCORPORATION OF FEDERAL TESTING REQUIREMENTS BY**  
97.9 **REFERENCE.**

97.10 [For text of subps 1 to 3, see M.R.]

97.11 Subp. 4. **Document submission.** All requests, reports, applications, submittals, and  
97.12 other communications to the administrator pursuant to subparts 2 and 3 must be submitted  
97.13 to the person identified in part 7017.2017, except that for those sections identified in this  
97.14 part as not delegated to the commissioner, the request, report, application, or submittal  
97.15 must be submitted to the EPA administrator.

97.16 **7017.2017 SUBMITTALS.**

97.17 All submittals required under parts 7017.2015 to 7017.2060 must be submitted in  
97.18 a physical or electronic format as specified by the commissioner and sent to the address  
97.19 identified on the required form or provided by the commissioner.

97.20 **7017.2025 OPERATIONAL REQUIREMENTS AND LIMITATIONS.**

97.21 [For text of subps 1 to 3, see M.R.]

97.22 Subp. 3a. **Compliance with new operating limits.** If a new operating limit is  
97.23 imposed pursuant to subpart 3, it shall be implemented according to items A to C, unless  
97.24 otherwise defined in an applicable requirement or compliance document.

97.25 [For text of items A and B, see M.R.]

C. For new operating limits and pollution control equipment limits not specified in item A or B, the averaging time and any extension of the range of values must be defined in the test plan approved under part 7017.2030, subpart 2.

[For text of subp 3b, see M.R.]

**Subp. 4. Failure to demonstrate compliance.**

[For text of item A, see M.R.]

B. The owner or operator may receive an extension to the schedule in item A if the owner or operator demonstrates in writing to the commissioner that one of the following special circumstances applies:

[For text of subitems (1) to (5), see M.R.]

(6) the owner or operator needs additional time to complete corrective actions or procedural changes to the affected emission unit or units before retesting.

[For text of item C, see M.R.]

**Subp. 5. Failure of retest.** If the owner or operator has conducted a retest under subpart 4 and the commissioner provides written notice to the owner or operator of the emission facility that the retest provides a second demonstration of noncompliance with an applicable emission limit, the owner or operator must comply with this subpart.

A. Unless item B applies, the owner or operator must demonstrate to the commissioner that corrective actions or procedural changes have been made that will be applied consistently and that will, when properly executed, ensure that the emission units will demonstrate compliance at all times with all applicable emission limits and capture, removal, or destruction efficiency requirements.

(1) If the owner or operator identifies such corrective actions or procedural changes and receives the commissioner's written approval of the required demonstration, the owner or operator may continue to operate the affected emissions units, provided the

99.1 owner or operator continues to implement the approved actions or changes. If required by  
99.2 parts 7007.1150 to 7007.1500, the owner or operator must apply for a permit amendment  
99.3 to incorporate the approved actions or changes into the facility permit.

99.4 (2) If the owner or operator cannot identify such corrective actions or  
99.5 procedural changes, the owner or operator must comply with item B.

99.6 B. If the owner or operator cannot first make the demonstration specified in  
99.7 item A and does not receive written approval to operate according to item A, the owner  
99.8 or operator must propose terms and conditions to the commissioner, in writing, that will  
99.9 ensure compliance with all conditions or requirements underlying each limit that the  
99.10 owner or operator failed.

99.11 (1) If the commissioner determines that the terms and conditions will  
99.12 ensure compliance at all times with the conditions or requirements underlying each limit  
99.13 that the owner or operator failed, the owner or operator must apply for the appropriate  
99.14 permit amendment to incorporate the terms and conditions into the facility permit.

99.15 (2) If the commissioner determines that the terms and conditions will not  
99.16 ensure compliance with the conditions or requirements underlying each limit that the  
99.17 owner or operator failed, the owner or operator must shut down the affected emission  
99.18 unit or units and must not restart the unit or units until the owner or operator corrects all  
99.19 deficiencies in the proposal and the commissioner approves the proposal.

99.20 [For text of subp 6, see M.R.]

99.21 **7017.2035 PERFORMANCE TEST REPORTING REQUIREMENTS.**

99.22 [For text of subp 1, see M.R.]

99.23 Subp. 2. **Submittal schedule.** The performance test report must be postmarked or  
99.24 received within 45 days following completion of the performance test unless an alternate  
99.25 schedule is given in the applicable compliance document. The owner or operator of the

100.1 emission facility may request in the test plan that the submittal deadline be extended by up  
100.2 to 15 days if the complexity of the test schedule or the laboratory analysis is such that  
100.3 submittal within 45 days is impractical.

100.4 Subp. 3. **Complete report.** The report must include the following elements:

100.5 [For text of items A to C, see M.R.]

100.6 D. Summary of results:

100.7 (1) emission results, expressed in the same units as the emission limits or in  
100.8 units prescribed in any applicable compliance document as defined in part 7017.2005,  
100.9 subpart 2;

100.10 [For text of subitems (2) to (6), see M.R.]

100.11 [For text of items E to I, see M.R.]

100.12 **7017.2050 PERFORMANCE TEST METHODS.**

100.13 Subpart 1. **Test methods.** Unless a different method is given in an applicable  
100.14 requirement or compliance document, the owner or operator of an emission facility shall  
100.15 conduct performance tests using the methods incorporated by reference in part 7017.2010  
100.16 and following the requirements in part 7017.2060, unless an alternative or equivalent  
100.17 method is approved or required by the commissioner in accordance with subpart 2. If the  
100.18 methods incorporated by reference include exemptions and exclusions that do not meet the  
100.19 requirements of parts 7017.2001 to 7017.2060, the exemptions and exclusions do not apply.

100.20 [For text of subp 2, see M.R.]

100.21 **7017.2060 PERFORMANCE TEST PROCEDURES.**

100.22 [For text of subps 1 and 2, see M.R.]

100.23 Subp. 3. **Particulate matter determination.** The owner or operator must conduct  
100.24 particulate matter emission tests as required in this subpart.



101.1 A. Unless the commissioner has approved an equivalent method, the owner or  
101.2 operator must use Method 5, Code of Federal Regulations, title 40, part 60, Appendix A-3,  
101.3 as amended, and Method 202, Code of Federal Regulations, title 40, part 51, Appendix  
101.4 M, as amended.

101.5 B. The owner or operator must report:

101.6 (1) the results for filterable, organic condensable, and inorganic  
101.7 condensable particulate matter separately; and

101.8 (2) the sum of filterable and organic condensable particulate matter.

101.9 C. An emission facility's compliance status is based on a comparison of the sum  
101.10 of filterable and organic condensable particulate matter to the applicable limit, unless  
101.11 otherwise required under chapter 7011.

101.12 D. When submitting a proposed test plan, an owner or operator may apply to  
101.13 the commissioner to exclude organic condensable particulate matter from a performance  
101.14 test for particulate matter. ~~The commissioner shall approve the exclusion if the owner or~~  
101.15 ~~operator demonstrates~~ must demonstrate:

101.16 (1) through previous performance test results that the emissions unit is not  
101.17 a source of organic condensable particulate matter emissions; or

101.18 (2) that an exception in Method 202, section 1.4(h), as amended, applies.

101.19 Subp. 4. **PM-10 determination.** The owner or operator must conduct PM-10  
101.20 emission tests as required in this subpart.

101.21 A. Unless the commissioner has approved an equivalent method, the owner or  
101.22 operator must use Method 201 or 201A, Code of Federal Regulations, title 40, part 51,  
101.23 Appendix M, as amended, and Method 202, Code of Federal Regulations, title 40, part 51,  
101.24 Appendix M, as amended.

101.25 B. The owner or operator must report:

102.1 (1) the results for filterable, organic condensable, and inorganic  
102.2 condensable PM-10 separately; and

102.3 (2) the sum of filterable, organic condensable, and inorganic condensable  
102.4 PM-10.

102.5 C. An emission facility's compliance status is based on a comparison of the sum  
102.6 of filterable, organic condensable, and inorganic condensable PM-10 to the applicable  
102.7 PM-10 limit, unless otherwise required under chapter 7011.

102.8 D. When submitting a proposed test plan, an owner or operator may apply to  
102.9 the commissioner to exclude organic and inorganic condensable particulate matter from a  
102.10 performance test for PM-10. The ~~commissioner shall approve the exclusion if the owner~~  
102.11 or operator ~~demonstrates~~ must demonstrate:

102.12 (1) through previous performance test results that the emissions unit is not  
102.13 a source of organic or inorganic condensable particulate matter emissions; or

102.14 (2) that an exception in Method 202, section 1.4(h), as amended, applies.

102.15 Subp. 4a. **PM-2.5 determination.** The owner or operator must conduct PM-2.5  
102.16 emission tests as required in this subpart.

102.17 A. Unless the commissioner has approved an equivalent method, the owner or  
102.18 operator must use Method 201A, Code of Federal Regulations, title 40, part 51, Appendix  
102.19 M, as amended, and Method 202, Code of Federal Regulations, title 40, part 51, Appendix  
102.20 M, as amended.

102.21 B. The owner or operator must report:

102.22 (1) the results for filterable, organic condensable, and inorganic  
102.23 condensable PM-2.5 separately; and

102.24 (2) the sum of filterable, organic condensable, and inorganic condensable  
102.25 PM-2.5.

103.1 C. An emission facility's compliance status is based on a comparison of the sum  
103.2 of filterable, organic condensable, and inorganic condensable to the applicable PM-2.5  
103.3 limit, unless otherwise required under chapter 7011.

103.4 D. When submitting a proposed test plan, an owner or operator may apply to  
103.5 the commissioner to exclude organic and inorganic condensable particulate matter from a  
103.6 performance test for PM-2.5. ~~The commissioner shall approve the exclusion if the owner~~  
103.7 ~~or operator demonstrates~~ must demonstrate:

103.8 (1) through previous performance test results that the emissions unit is not  
103.9 a source of organic or inorganic condensable particulate matter emissions; or

103.10 (2) that an exception in Method 202, section 1.4(h), as amended, applies.

103.11 [For text of subps 5 to 7, see M.R.]

103.12 **7019.3020 CALCULATION OF ACTUAL EMISSIONS FOR EMISSION**  
103.13 **INVENTORY.**

103.14 [For text of items A and B, see M.R.]

103.15 C. Owners or operators of emission reporting facilities that hold an air emission  
103.16 permit under part 7007.1115, registration permit option A, must report actual emissions  
103.17 calculated for the calendar year for which emissions are being reported in a format  
103.18 specified by the commissioner.

103.19 D. All owners or operators of emission reporting facilities which have obtained  
103.20 an air emission permit under part 7007.1125, registration permit option C, shall report the  
103.21 quantity of each fuel purchased or used (whichever was stated in the facility's registration  
103.22 permit application) in the year for which emissions are being calculated. The report shall  
103.23 apportion the quantity of fuel burned with the type of combustion unit (indirect heating  
103.24 units or internal combustion engines) in which it was burned. The owner or operator shall  
103.25 report the quantity of VOC-containing materials purchased or used (whichever is stated

104.1 in the facility's registration permit application) in the year for which emissions are being  
104.2 calculated. The owners or operators reporting VOC-containing materials purchases or  
104.3 usage shall also report the weight factor (WF) of the VOC in the materials (weight of  
104.4 VOC per weight of VOC-containing materials) and the density of the materials. The  
104.5 actual emissions shall be calculated by the commissioner.

104.6 E. All owners or operators of emission reporting facilities which have obtained  
104.7 an air emission permit under part 7007.1130, registration permit option D, shall report the  
104.8 actual emissions calculated for purposes of compliance demonstration required in part  
104.9 7007.1130, subpart 3, item E, for the calendar year for which emissions are being reported  
104.10 in a format specified by the commissioner.

104.11 F. All owners or operators of emission reporting facilities which have obtained  
104.12 an air emission permit under parts 7007.1140 to 7007.1148, capped permit, shall report the  
104.13 actual emissions calculated for purposes of compliance demonstration required in part  
104.14 7007.1146, subpart 2, item H, for the calendar year for which emissions are being reported  
104.15 for all emission units in a format specified by the commissioner.

104.16 G. All owners or operators of an emission reporting facility submitting an  
104.17 emission inventory based in whole, or in part, on a material balance calculation shall  
104.18 submit a sample material balance calculation with the emission inventory. Such facilities  
104.19 shall also maintain a record of the material safety data sheets or vendor certification of  
104.20 the VOC, mercury, or sulfur content of the material for each material or fuel used and  
104.21 the material balance calculations for a period of five years after the date of submittal of  
104.22 the emission inventory.

104.23 H. The emission inventory may be based on the use of control equipment only  
104.24 if the use of the specific control equipment is required under conditions of a permit or  
104.25 applicable requirement as defined in part 7007.0100, subpart 6b, or is included in a  
104.26 notification received by the agency under part 7007.1150, item C. This item applies upon

issuance under chapter 7007 of a registration, state, capped, general, or part 70 permit to a stationary source but no earlier than the date three years after EPA grants full program approval of the agency's permit program under title 5 of the Clean Air Act.

**7030.0010 INCORPORATION BY REFERENCE.**

For the purpose of chapter 7030, American National Standards Institute, Specification for Sound Level Meters, S1.4-1983 is incorporated by reference. This publication is available from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018 and can be found at: the offices of the Minnesota Pollution Control Agency, 520 Lafayette Road North, Saint Paul, Minnesota 55155; the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454; and the State of Minnesota Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This document is not subject to frequent change.

The Federal Highway Administration publication, Sound Procedures for Measuring Highway Noise: Final Report, FHWA-DP-45-1R (August 1981) is incorporated by reference. This publication is available from the United States Department of Transportation, Federal Highway Administration, 1000 North Globe Road, Arlington, Virginia 22201 and can be found at: the offices of the Minnesota Pollution Control Agency, 520 Lafayette Road North, Saint Paul, Minnesota 55155; the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454; and the State of Minnesota Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This document is not subject to frequent change.

**7030.0050 NOISE AREA CLASSIFICATION.**

[For text of subp 1, see M.R.]

**Subp. 2. Noise area classifications.** The noise area classifications and the activities included in each classification are listed below:

106.1	Noise Area	
106.2	Classification	Land Use Activities
106.3	1	Household Units (includes farm houses)
106.4		Hotels, motels, or other overnight lodging
106.5		Mobile home parks or courts
106.6		Other residential units
106.7		Motion picture production
106.8		Medical and other health services
106.9		Correctional institutions
106.10		Educational services
106.11		Religious activities
106.12		Cultural activities and nature exhibitions
106.13		Entertainment assembly
106.14		Camping and picnicking areas (designated)
106.15		Resorts and group camps
106.16		Other cultural, entertainment, and recreational activities.
106.17	2	Railroad terminals (passenger and freight)
106.18		Rapid rail transit and street railway passenger terminals
106.19		Bus passenger terminals (intercity and local)
106.20		Other motor vehicle transportation
106.21		Airport and flying field terminals (passenger and freight)
106.22		Marine terminals (passenger and freight)
106.23		Automobile parking
106.24		Transportation services and arrangements
106.25		Wholesale trade
106.26		Retail trade – including restaurants and bars
106.27		Finance, insurance, and real estate services
106.28		Personal services
106.29		Business, legal, or other professional services
106.30		Repair services
106.31		Contract construction services

- 107.1 Governmental services (except correctional institutions)
- 107.2 Miscellaneous services (except religious activities)
- 107.3 Public assembly (except entertainment assembly and race tracks)
- 107.4 Amusements (except fairgrounds and amusement parks)
- 107.5 Recreational activities (except designated camping and picnicking areas)
- 107.6 Parks
- 107.7 3 Manufacturing
- 107.8 Transportation (except passenger terminals)
- 107.9 Highway and street right-of-way
- 107.10 Communication
- 107.11 Utilities
- 107.12 Race tracks
- 107.13 Fairgrounds and amusement parks
- 107.14 Agricultural and related activities
- 107.15 Forestry activities and related services (including commercial forest
- 107.16 land, timber production, and other related activities)
- 107.17 Fishing activities and related services
- 107.18 Mining activities and related services
- 107.19 Other resource production and extraction
- 107.20 All other activities not otherwise listed.
- 107.21 4 Undeveloped and unused land area
- 107.22 Noncommercial forest development
- 107.23 Water areas
- 107.24 Vacant floor area
- 107.25 Under construction

107.26 [For text of subp 3, see M.R.]

- 107.27 **RENUMBERING AND RELETTERING.** In each part of Minnesota Rules referred to
- 107.28 in column A, the reference in column B is deleted and the reference in column C is inserted.

	Column A	Column B	Column C
108.1			
108.2	<del>7007.0150, subp. 5</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.3	7007.0325, subp. 2	7019.3020, items B, C, and D	7019.3020, items B, D, and E
108.4	7007.0325, subp. 2	7019.3020, item E	7019.3020, item F
108.5	7007.0800, subp. 6	7007.0500, subp. 2, item K,	7007.0500, subp. 2, item K,
108.6		subitem (4)	subitem (5)
108.7	<del>7007.0800, subp. 10</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.8	<del>7007.1300, subp. 2</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.9	<del>7007.1400, subp. 1</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.10	<del>7007.1500, subp. 1</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.11	<del>7007.1750</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.12	<del>7008.2000</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.13	<del>7017.0100, subp. 1</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.14	<del>7017.2005, subp. 1a</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.15	<del>7019.1000, subp. 6</del>	<del>7007.0100, subp. 7</del>	<del>7007.0100, subp. 6a</del>
108.16	<b>REPEALER.</b> Minnesota Rules, parts 7007.0325; 7009.0070; 7011.0725; 7011.1280,		
108.17	subpart 8; 7011.1400, subpart 12; <b>7011.1415</b> ; 7017.1080, subpart 3; 7017.1120, subpart 2;		
108.18	7017.1170, subparts 1, 4, and 5; 7017.1210; 7017.2001, subpart 2; and 7017.2018, are		
108.19	repealed.		



STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY

Adoption of Rules Governing Air Quality  
Minnesota Rules, Chapters 7002 Emission  
Permit Fees, 7005 Definitions and Abbreviations,  
7007 Air Emissions Permits, 7008 Exempt Air  
Emissions, 7009 Ambient Air Quality Standards,  
7011 Standards for Stationary Sources, 7017  
Monitoring and Testing Requirements, 7019  
Emission Inventory Requirements, and 7030  
Noise Pollution Control

ORDER ADOPTING RULES

OAH Docket No. 19-9003-33170  
Revisor's ID: RD4097  
Governor's Office Tracking No. AR 2006

**WHEREAS:**

1. The Minnesota Pollution Control Agency (MPCA) submitted the rules on August 11, 2016, to the Office of Administrative Hearings for review and approval.
2. Administrative Law Judge (ALJ) Jeffery Oxley, issued his Report on August 25, 2016.
3. The ALJ found that the MPCA has the statutory authority to adopt rules, and has complied with the procedural requirements in *Minnesota Statutes*, chapter 14 (2016), and *Minnesota Rules*, chapter 1400 (2015).
4. During the public comment period on the rule, the MPCA received no requests for a public hearing. As identified in the Notice of Intent to Adopt Rules (Notice) published in the February 29, 2016, *State Register*, if 25 or more persons submit valid written requests for a public hearing on the rules, hearings will be held following the procedures in Minn. Stat. §§ 14.131 to 14.20. The MPCA did not hold a public hearing on the proposed rules because it received no requests. The MPCA received no requests for notice of submittal of the rules to the Office of Administrative Hearings.
5. The MPCA received eight (8) comment letters on the proposed rules during the public comment period. The MPCA has made modifications to the proposed rules as a result of comments received during the public comment period. The MPCA also made modifications it determined were needed based upon additional review of the proposed rules during the public comment period. These modifications are presented in Findings No. 13 through 135.
6. The MPCA response to other comments received that did not result in rule modifications are found in the MPCA's Response to Comments (Attachment 1). The MPCA incorporates by reference, the MPCA's Response to Comments, into this Order Adopting Rules.

7. As identified in his Report, the ALJ found that the proposed rule amendments, including the modifications to the rule amendments made by the MPCA in response to comments received, are needed and reasonable, and recommended the proposed rules, as modified by the MPCA, be adopted. The ALJ also provided several suggestions intended to enhance the clarity and readability of a proposed rule amendment.
8. The MPCA has made modifications to the rule based on several of the suggestions by ALJ Oxley in the Order on Review of Rules, dated August 25, 2016. These modifications are presented in Findings No. 136 through 186.
9. All modifications in Findings No. 13 through 186 are set forth in a revised version of the proposed rules which is attached to this Order Adopting Rules (Attachment 2).
10. The modifications to the proposed rules are not substantially different from the proposed rule based on the criteria set forth in Minn. Stat. § 14.05, subd. 2.
11. The issue of substantial difference is addressed in detail with regard to each modification. In general, the Notice provided fair warning that these rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected, the subject matter and issues in the Notice are the same as the subject matter and issues addressed in the modifications, and the effects of the modifications are not greatly different from the rules as originally proposed. All the modifications are clearly within the scope of "Subject of the Rules," and are generally related to updates to air program definitions and ambient air quality standards, changes to permitting and performance testing rules, and incorporation by reference of new federal performance and emission standards; all of which were announced in the Notice. The modifications are a logical outgrowth of the Notice and the comments submitted in response to the Notice.
12. The MPCA finds that under the listed criteria of Minn. Stat. § 14.05, subd. 2, the rule with the modifications set forth in this Order Adopting Rules is not substantially different from the rule as originally proposed.

## **MODIFICATIONS TO THE RULE BASED ON PUBLIC COMMENT AND ADDITIONAL MPCA REVIEW.**

### **Change to Chapters 7007 and 7011**

13. The Fond du Lac Band commented that the proposed rule at part 7011.1135, subpart 2 states "shall be," where several previous lines addressing performance tests use "must be." During the public comment period, the MPCA also found, additional parts in the proposed rules where "shall" is used rather than "must." In some instances, it is appropriate to use "shall" which is why there are some parts where no change to "must" was made. The Office of the Revisor of Statutes, "Minnesota Rules Drafting Manual" recommends using "must" not "shall" to impose duties.
14. The following rule parts are modified by deleting "shall" and adding "must": part 7007.0300, subpart 1, item D; part 7007.0500, subpart 3; part 7011.0065, subpart 1; part 7011.0080; part 7011.0535, subpart 3; part 7011.1105; part 7011.1135, subparts 1 and 2; and part 7011.1265, subpart 2. These modifications align with the change from "shall" to "must" that was made throughout other parts of the rule chapters being amended in this rulemaking without changing the applicability of the rules. See the Statement of Need and Reasonableness (SONAR) at page 10. The MPCA finds this modification is reasonable because it provides consistency and clarity to the proposed rules.
15. These modifications do not make the proposed rule substantially different. Minnesota's statute on statutory construction defines both "shall" and "must" as mandatory. Minn. Stat. § 645.44, subds. 15a and 16. The

modifications are clearly within the scope of "Subject of the Rule" as announced in the Notice. The modifications are a logical outgrowth of the Notice and comment process and the Notice provided fair warning that this rule change could result. The modifications do not change who will be subject to the rule, nor does it change the applicability or effect of the proposed rules.

#### 7005.0100 DEFINITIONS.

##### Change to Part 7005.0100, subpart 4f, subpart 12a, and subpart 29a

16. During the public comment period on the rule, the MPCA determined that the proposed definitions for subpart 4f "condensable particulate matter," subpart 12a "inorganic condensable," and subpart 29a "organic condensable" may cause confusion because of similarity in the terminology. Therefore, modifications are needed in these subparts; each is described below.

##### Change to Part 7005.0100, subpart 4f

17. Subpart 4f defines "condensable particulate matter." The MPCA is modifying this subpart because the proposed definition of "condensable particulate matter" taken in context with the subpart 12a definition of "inorganic condensable" and the subpart 29a definition of "organic condensable" is potentially confusing. First, because "condensable particulate matter" could be either "inorganic condensable particulate matter" or "organic condensable particulate matter" or both, it is not useful to also define "condensable particulate matter." Second, the MPCA is revising the definitions of "inorganic condensable" and "organic condensable" in part 7005.0100 by adding "particulate matter" to each of these terms to clarify that "inorganic" or "organic" means the "inorganic" or "organic" "condensable particulate matter." In doing so, the definition of "condensable particulate matter" is not needed, and subpart 4f is modified by deleting this subpart. It is reasonable to delete a definition that is confusing and no longer needed.

##### *Part 7005.0100, Subp. 4f*

~~Subp. 4f. **Condensable particulate matter.** "Condensable particulate matter" means material that is in vapor phase at stack conditions and upon discharge immediately condenses in the ambient air to form solid or liquid particulate.~~

18. The MPCA finds that this modification does not make the proposed rule substantially different. The regulation of the forms of particulate matter remains the same and the change only makes the definitions clearer and more specific. The modification is clearly within the scope of "Subject of Rules" Chapter 7005 as announced in the Notice because all of these definitions were proposed to be added in this rulemaking. The modification is a logical outgrowth of the Notice and the Notice provided fair warning that this rule change could result. Deleting the definition of "condensable particulate matter" does not change the applicability or stringency of the proposed rules.

##### Change to Part 7005.0100, subpart 4g

19. The MPCA finds that a correction is needed at subpart 4g, the definition of "conditionally exempt stationary source." Subpart 4g is modified by deleting the reference to part 7007.0100, subpart 6b (Approved replicable methodology) and retaining the original reference to part 7007.0100, subpart 7 (Applicable requirement) in order to correctly reference the applicable requirements in part 7007.0100, subpart 7 to which this definition is intended to apply. It is reasonable to make a change to correct a rule reference.

*Part 7005.0100, Subp. 4g*

*Subp. 4g. **Conditionally exempt stationary source.** "Conditionally exempt stationary source" means a stationary source listed in parts 7008.2100 to 7008.2250 that complies with chapter 7008 and all applicable requirements as defined in part 7007.0100, subpart ~~6b~~ 7, and is not part of another stationary source.*

20. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of "Subject of Rules" Chapter 7005 as announced in the Notice, is a logical outgrowth of the Notice, and the Notice provided fair warning that this rule change could result. Correcting the reference does not change the applicability or stringency of the proposed rules.

**Change to Part 7005.0100, subpart 4h**

21. The MPCA finds that a correction is needed at subpart 4h, the definition of "conditionally insignificant activity." Subpart 4h is modified by including references to all the rules that apply to sources that seek to qualify as a conditionally insignificant activity, and deleting the reference to part 7007.0100, subpart 6b (Approved replicable methodology) and retaining the original reference to part 7007.0100 subpart 7 (Applicable requirement). The first change is needed to include all activities that are intended to be regulated as conditionally insignificant. The second change is needed to correctly reference the applicable requirements in part 7007.0100 to which this definition is intended to apply. It is reasonable to make a change to correct a rule reference.

*Part 7005.0100, Subp. 4h*

*Subp. 4h. **Conditionally insignificant activity.** "Conditionally insignificant activity" means any emissions unit, emissions units, or activity listed in ~~part parts~~ 7008.4100 to 7008.4110 that complies with chapter 7008 and all applicable requirements as defined in part 7007.0100, subpart ~~6b~~ 7.*

22. The MPCA finds that these modifications do not make the proposed rule substantially different. The modifications are clearly within the scope of "Subject of Rules" Chapter 7005 as announced in the Notice, is a logical outgrowth of the Notice, and the Notice provided fair warning that this rule change could result. Correcting the reference does not change the applicability or stringency of the proposed rules.

**Change to Part 7005.0100, subpart 12a**

23. Subpart 12a is modified by adding "particulate matter" to the term "inorganic condensable" to clarify that "inorganic condensable" means "inorganic condensable particulate matter." As explained in the SONAR (page 9), the MPCA intended with this rulemaking to provide greater consistency and specificity when referring to particulate matter throughout the rule. Adding "particulate matter" to the term "inorganic condensable" makes clear the material being referred to. The MPCA finds that the change is reasonable because it clarifies that the definition is referring to a specific type of particulate matter.

*Part 7005.0100, Subp. 12a*

*Subp. 12a. **Inorganic condensable particulate matter.** "Inorganic condensable particulate matter" means inorganic material collected and measured by the sample train during a performance test for particulate matter.*

24. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of "Subject of Rules" Chapter 7005 as announced in the Notice, is a logical outgrowth of the Notice, and the Notice provided fair warning that this rule change could result. Modifying the term "inorganic condensable" does not change the applicability or stringency of the proposed rules.

#### Change to Part 7005.0100, subpart 29a

25. Subpart 29a is modified by adding "particulate matter" to the term "organic condensable" to clarify that "organic condensable" means "organic condensable particulate matter." As explained in the SONAR (page 9), the MPCA intended with this rulemaking to provide greater consistency and specificity when referring to particulate matter throughout the rule. Adding "particulate matter" to the term "organic condensable" makes clear the material being referred to. The MPCA finds that the modification is reasonable because it clarifies that the definition is referring to a specific type of particulate matter.

#### *Part 7005.0100, Subp. 29a*

*Subp. 29a. **Organic condensable particulate matter.** "Organic condensable particulate matter" means organic material collected and measured by the sample train during a performance test for particulate matter.*

26. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of "Subject of Rules" Chapter 7005 as announced in the Notice, is a logical outgrowth of the Notice, and the Notice provided fair warning that this rule change could result. Modifying the term "organic condensable" does not change the applicability or stringency of the proposed rules.

#### 7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.

#### Change to Part 7007.0300, subpart 1, item D

27. The Minnesota Chamber of Commerce (Chamber) disagrees with the MPCA's position that current rules do not adequately limit potential to emit from these activities. The Chamber points first to the volatile organic compound (VOC) usage in existing rules of 200 gallons or 2,000 pounds. The Chamber then points to particulate matter (PM) limits in part 7008.4110 that restrict particulate matter emissions by not allowing a source equipped with control equipment to exhaust outside of a building. The Chamber stated that the SONAR does not specifically reference a federal rule supporting the MPCA's position that a change is necessary to align conditionally exempt activities with federal air permitting rules. The Chamber disagrees with the MPCA that changes are necessary to adequately limit and permit conditionally insignificant activities, and requests that the proposed rules not be adopted.
28. The Alliance of Automotive Service Providers of Minnesota (AASP-MN) and the Chamber commented that by striking "conditionally insignificant activities" from part 7007.0300, subpart 1, item D, the permitting exemption for many very small air emission sources, would require these sources to seek a permit from the MPCA. The AASP-MN states that there are 800 plus such small collision repair businesses in Minnesota.
29. "Conditionally insignificant activities" are defined in part 7005.0100, subpart 4h and are those activities where the owner or operator of an air emissions source agrees to meet the conditions in *Minn. R. ch. 7008* to restrict

the operations and the air emissions at the emissions facility. These restrictions allow a facility to qualify for an exemption from the air emission permit requirements in *Minn. R. 7007.0300*. Facilities that most often qualify for a permitting exemption under *Minn. R. 7007.0300*, subpart 1, item D, are operations like auto body repair shops with activities that qualify as conditionally insignificant activities, or insignificant activities where the potential to emit of regulated air pollutants at a facility is above the permit thresholds, but because the equipment is operated infrequently, actual emissions of pollutants are very low. Potential to emit refers to the highest amount of a pollutant that the stationary source could release into the air; even if the stationary source has never actually emitted the highest amount and would not as a business choice. The MPCA created a permitting exemption for facilities that have only insignificant activities and conditionally insignificant activities because many air emission facilities are very small emission sources and are not currently sources of concern, as a class. "Insignificant activities" are defined by the conditions described in *Minn. R. 7007.1300*.

30. Limits on allowable amounts of air emissions must be federally enforceable in order to create a regulatory exemption from permit requirements in *Minn. R. ch. 7007*. "Federally enforceable" means that the United States Environmental Protection Agency (USEPA) has direct right and ability to enforce restrictions and limits imposed on an air emissions source to limit its exposure to Clean Air Act programs. Federally enforceable limits must also be enforceable as a practical matter. USEPA's guidance states that for rules and general permits that apply to categories of sources, practicable enforceability requires that limits (1) identify the types or categories of sources that are covered by the rule; (2) where coverage is optional, provide for notice to the permitting authority of the source's election to be covered by the rule; (3) specify the enforcement consequences relevant to the rule; (4) include a technically accurate limitation and the portions of the source subject to the limitation; (5) include the time period for the limitation; and (6) include a method to determine compliance including appropriate monitoring, record keeping and reporting.
31. Existing rules do not impose conditions that satisfy the six criteria in Finding No. 24 above to make those conditions federally enforceable. As a result, the MPCA proposed to delete the exemption for conditionally insignificant activities in parts 7008.4000 to 7008.4110.
32. The MPCA agrees that deleting the exemption for conditionally insignificant activities would require small stationary sources to apply for an air emissions permit. The MPCA finds that this is not currently an effective use of its resources. Modifications to the technical requirements in *Minn. R. ch. 7008* related to controlling emissions from small air emission sources, would allow the MPCA to continue to exempt "conditionally insignificant sources" from permitting. Therefore, rather than retain the existing language as the Chamber urges, the MPCA will modify part 7007.0300, subpart 1, item D.
33. Subpart 1, item D is modified to first create an itemized list of sources, then in subitem (2) add conditionally insignificant activities as exempt from permitting, and in subitem (3) to clearly indicate that sources that consist solely of insignificant activities and conditionally insignificant activities are exempt from permitting. Following this list, the statement that the owner or operator must comply with parts 7008.4000 to 7008.4110 has been added. These modifications remedy the gap in federal enforceability related to potential interpretation of voluntary applicability and reflect current practice. The MPCA finds that along with the requirements in *Minn. R. ch. 7008* that impose emission limits on volatile organic compounds and particulate matter, this permitting exemption is now federally enforceable for conditionally insignificant activities.
34. Additional rulemaking is necessary to complete the design and application of particulate matter limits for very small sources that emit only particulate matter (part 7008.4110). Significant changes are anticipated in part 7008.4110 to craft federally enforceable particulate matter limits; therefore, a separate rulemaking is needed to provide for additional data gathering and public participation in the rulemaking process.

Part 7007.0300, Subp. 1D

*Subpart 1. **No permit required.** The owners and operators of the following stationary sources are not required to obtain a permit under parts 7007.0100 to 7007.1850:*

*D. any stationary source with only emissions units ~~listed as that~~:*

*(1) are listed as insignificant activities in part 7007.1300, subparts 2 and 3;*

*(2) are conditionally insignificant activities under chapter 7008; or*

*(3) qualify under both subitems (1) and (2).*

*The owner or operator of a stationary source that has conditionally insignificant activities must comply with parts 7008.4000 to 7008.4110 to qualify for the permit exemption under this part. The owner or operator must maintain records that demonstrate that a permit is not required. These records ~~shall~~ must contain a list of all emissions units and the Minnesota Rules citation that defines those emissions units as an insignificant activity or conditionally insignificant activity. The records ~~shall~~ must be permanently kept at the stationary source or a central office and be readily available for examination and copying by the commissioner or a representative of the commissioner;*

35. The MPCA finds that this modification does not make the proposed rule substantially different. With this modification, small emission facilities will continue to remain exempted from air emissions permitting provided they comply with the conditions of parts 7008.4000 to 7008.4110. The Notice provided fair warning that these rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected, the subject matter and issues in the Notice are the same as the subject matter and issues addressed in the change are not different from the rule as proposed. The modification is clearly within the scope of "Subject of the Rules" Chapter 7008, as announced in the Notice, and is related to changes to permitting rules. This modification is a logical outgrowth of the Notice as it is a result of the comments submitted in response to the Notice.

## 7007.0500 CONTENT OF PERMIT APPLICATION.

### Change to Part 7007.0500, subpart 3

36. The United States Steel Corporation (US Steel) commented that "notice" is not a defined term and the purpose of adding it to subpart 3 is unclear. Title V permits frequently have requirements for notifying the agency of various conditions and to have a responsible official sign each and every one would be extremely burdensome. It does not appear in the SONAR that was the intent, but inclusion pursuant to part 7007.0100, subpart 7, item R would make it a requirement. US Steel requested that "notice" be removed from part 7007.0500, subpart 3.
37. As described in the SONAR (page 16), the purpose of the proposed change is to require notices that need to be either attached to the permit as required by rule or incorporated into the source's permit through a future permit action to have the same level of certification as information in a permit application. By requiring these specific notices to be signed and certified, the notice itself is adequate to make the changes to the permit at the next permit action, rather than the MPCA needing to request a new submittal to have the information certified at the next permit action. The proposed change is intended to reduce the permit application and review burden for both the permittee and the MPCA. However, the MPCA acknowledges that the proposed change resulted in a wider set of notices than this stated intention. Only those notices that are specifically attached to the permit itself, that are used to update the permit at the next permit action, or relate to permit status were intended to require signature and certification. These include notices submitted pursuant to part 7007.1150, item C (specified source changes allowed with notice); part 7007.1250, subpart 4 (accumulated insignificant

modifications); part 7007.1350, subpart 2 (contravening permit terms); part 7007.0800, subpart 10, item B (emissions trading changes); part 7007.1110, subparts 10 and 11 (registration permit ineligibility); and part 7007.1110, subpart 15a (registration permit source relocation). Therefore, these notices are included in the modified rule language. By contrast, the notice required under part 7007.1850, item C (Emergency Provisions) does not need to be signed and certified because this notice is not used as part of a permit action, and is therefore not included in part 7007.0500, subpart 3.

38. The reporting, monitoring, and testing requirements in *Minn. R. ch. 7017* that are included in the definition of applicable requirement under part 7007.0100, subpart 7, item R would not be considered a notice. However, part 7007.0500, subpart 3 requires a responsible official “to sign and certify any application, report, or compliance certification submitted pursuant to parts 7007.0100 to 7007.1850 with regard to truth, accuracy, and completeness” and no changes to that requirement are proposed. Rather than the change requested by US Steel, the MPCA will modify subpart 3 to specify the notices that must be signed and certified by a responsible official.
39. Subpart 3 is modified to delete “notice” in reference to parts 7007.0100 to 7007.1850, and to add the specific parts that allow for notices to which this part applies. This change is reasonable because it will eliminate confusion about what notices are to be signed and certified.

*Part 7007.0500, Subp. 3*

*Subp. 3. **Application certification.** A responsible official, as defined in part 7007.0100, subpart 21, ~~shall~~ must sign and certify any application, ~~notice~~, report, or compliance certification submitted pursuant to parts 7007.0100 to 7007.1850 or notice submitted pursuant to part 7007.1150, item C; 7007.1250, subpart 4; 7007.1350, subpart 2; 7007.0800, subpart 10, item B; or 7007.1110, subpart 10, 11, or 15a, with regard to truth, accuracy, and completeness. This certification and any other certification required by parts 7007.0100 to 7007.1850 ~~shall~~ must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. This subpart ~~shall~~ must be complied with by both the owner and the operator of the stationary source if they are not the same.*

40. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the “Subject of Rules” Chapter 7007, as announced in the Notice and is the MPCA’s response to the comment submitted regarding the content of a permit application and provides clarification that the commenter requested. The modification is a logical outgrowth of the Notice and comments submitted in response to the Notice, the Notice provided fair warning that this rule change could result.

## 7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.

### Change to Part 7007.0750, subpart 7, item A

41. After the public comment period, the MPCA further reviewed the proposed changes to this part and found redundant rule language. Part 7007.0750, subpart 7, item A contains the conditions under which a two-stage permit issuance procedure may be followed for permits authorizing construction or modification and operation of the source. Item A, subitem (2) is redundant with subitem (3) and is potentially confusing since there are no “requirements” of a Part 70 permit to include in a permit. The MPCA had intended “requirements” to mean following the procedures to obtain a Part 70 permit, a condition which is already identified in subitem (3), and which is not the same as “includes the requirements.” Therefore, the MPCA is modifying subpart 7, item A, by deleting subitem (2). It is reasonable to delete a proposed requirement that is redundant and confusing.



42. In addition, the Chamber commented that the wording in this subpart is unclear and confusing. The Chamber requested further clarification on this sentence in subpart 7: "...after all requirements of the applicable new source review program have been satisfied or after all requirements to avoid applicability of a new source review program have been completed..." The language could imply that, for example, pollution control equipment determined through a Best Available Control Technology analysis must be installed prior to issuance of the permit. The MPCA agrees that a clarification would be helpful to this rule part.
43. The MPCA intended that the permit be sent to the permittee after all procedural requirements, such as public participation, of the applicable new source review program are met. However, the rule language could imply that all requirements related to the applicable new source review program must be met, as indicated in the Chamber's example. Therefore, the MPCA is modifying the rule to clarify that only the procedural requirements of the applicable new source review program need to be satisfied, rather than all requirements. It is reasonable to clarify language to prevent a possible interpretation that the MPCA did not intend.

*Part 7007.0750, Subp. 7A*

*Subp. 7. Two-stage issuance of permits and permit amendments authorizing construction or modification.*

A. *If a permit or permit amendment:*

- (1) authorizes construction or modification;*
- (2) ~~includes the requirements of a part 70 permit;~~*
- (3) must follow the 45-day EPA review period procedures under part 7007.0950; and*
- (4)(3) includes either:*
  - (a) the requirements of a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act; or*
  - (b) an enforceable limitation assumed to avoid being subject to a new source review program under part C or D of the act,*

*then the agency shall send the permit to the permittee after ~~all requirements~~ the procedural requirements, including public participation procedures, of the applicable new source review program have been satisfied or after all requirements to avoid applicability of a new source review program have been completed including any required notice and comment period. The agency shall at the same time notify the permittee in writing that those permit conditions required by the new source review program or developed to avoid applicability of a new source review program and designated as such by the agency in the permit or amendment, and only those conditions, shall be considered issued.*

44. The MPCA finds that these modifications do not make the proposed rule substantially different because redundant rule language is deleted and the rule is clarified. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7007, as announced in the Notice. The modifications are the MPCA's response to an identified redundancy in the rule and are a logical outgrowth of the Notice and comments submitted in response to the Notice. Finally, the Notice provided fair warning that this rule may change due to comments submitted.

**7007.0800 PERMIT CONTENT.**

**Change to Part 7007.0800, subpart 2, item D**

45. Northern Tier-St. Paul Park Refining Company (SPPRC) and the Chamber submitted comments that suggested revisions to this rule. Northern Tier-SPPRC offered additional language with the apparent interest in expanding the description of the types of emission limits that might be considered for use in a permit.
46. The MPCA must modify this rule to ensure that it has the general authority to include in Title V permits conditions that ensure compliance with applicable standards during normal operation, including the setting into operation (start-up) and shutdown. Start-up and shutdown are not unusual or unexpected events, nor a malfunction. Rather than creating a list of potential means of establishing emission limits, the MPCA modified subpart 2, item D to delete reference to the examples of alternatives. The MPCA finds this change is reasonable to avoid the potential of overlooking or limiting a form that an alternative emission limit might take.

*Part 7007.0800, Subp. 2D*

*Subp. 2. **Emission limitations and standards.** The permit must:*

*D. contain provisions to ensure continuous compliance with applicable emissions limitations during periods of ~~start-up~~ start-up and shutdown of an emissions unit, ~~such as operating parameters or best practices to minimize emissions.~~*

47. The MPCA finds that these modifications do not make the proposed rule substantially different. The Notice provided fair warning that the rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7007, as announced in the Notice and the subject matter and issues in the Notice are the same as the subject matter and issues addressed in the changes. The effects of the modifications are not different from the proposed rule; permits must contain provisions to ensure continuous compliance during start-up and shutdown.

**7008.0100 DEFINITIONS.**

**Change to Part 7008.0100, subpart 2a**

48. The Chamber submitted comments on part 7008.4100 expressing their concern about the potential that the proposed change from "VOC usage" to "material usage" would inadvertently exclude some activities. The Chamber requested that the MPCA revise the definition of "material usage" to be more general. The MPCA reviewed the Chamber's list of activities that would not qualify and believe that the application of ink is the only use that wasn't already included under "material usage."
49. After the public comment period ended, the MPCA noted that the definition of material usage was not written clearly. In order to clarify the definition of material usage, subpart 2a is modified from 'Material usage means an activity at a stationary source when a material such as paint, coating, adhesive, or solvent is applied or used...' to 'Material usage means an activity at a stationary source such as the application or use of ink, paint, coating, adhesive or solvent...' Subpart 2a is further modified to add ink as an example of a qualifying material under the definition of "material usage." This modification is reasonable because it adds an example of another type of material that is considered representative of material usage.

*Part 7008.0100, Subp. 2a*

*Subp. 2a. **Material usage.** "Material usage" means an activity at a stationary source ~~when a material~~*

*such as ~~a the application or use of ink, paint, coating, adhesive, or solvent is applied or used~~ in a way that emits only VOC, hazardous air pollutants, particulate matter, PM-10, PM 2.5 or a combination thereof and emissions of these pollutants can be calculated on a mass balance basis as described in part 7008.4100. Material usage does not include material processes such as sanding, milling, materials reacting to form new materials, fuel usage, or grain or other material handling.*

50. The MPCA finds that these modifications do not make the proposed rule substantially different. The Notice provided fair warning that the rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected. The subject matter and issues in the Notice are the same as the subject matter and issues addressed in the modifications. Because permittees already viewed ink as a VOC-emitting material, this change more closely reflects current practices.

#### **Change to Part 7008.0100, subpart 2b**

51. In reviewing the proposed rules related to the administration and implementation of revised part 7008.4100, the MPCA notes that there is potentially some confusion in how VOCs are being accounted for in the emission calculations of part 7008.4100, subpart 2. Reference to the hazardous waste rule definition in part 7045.0020 in the proposed rule is unnecessary, as the definition of recycling is provided in the text of subpart 2b; therefore, the MPCA is modifying the definition to first delete reference to part 7045.0020. Next, subpart 2b is modified to add the references to the definitions of reclamation and reuse, because both of these terms are used in the definition of "recycling." This change is reasonable because it directs the reader to the rule parts that contain the definitions for the terms used to define recycling.

#### *Part 7008.0100, Subp. 2b*

*Subp. 2b. **Recycling.** "Recycling" means the reclamation or reuse of waste VOC-containing or hazardous air pollutant-containing materials from material usage activities, ~~as defined in part 7045.0020.~~ For purposes of this subpart, "reclamation" has the meaning given in part 7045.0020, subpart 73c, and "reuse" has the meaning given in part 7045.0020, subpart 75a.*

52. The MPCA finds that these modifications do not make the proposed rule substantially different. The Notice provided fair warning that the rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected. The subject matter and issues in the Notice are the same as the subject matter and issues addressed in the changes. The effect of these modifications brings the definition of recycling into the current concept of recycling VOC-containing material, and these modifications only clarify which definitions in the hazardous waste rules are to be used.

#### **7008.4000 CONDITIONALLY INSIGNIFICANT ACTIVITIES.**

#### **Change to Part 7008.4000**

53. Part 7008.4000 establishes the requirements for conditionally insignificant activities. As discussed in Findings No. 27 through 35, the MPCA is modifying the proposed rules in response to comments submitted by AASP-MN and the Chamber requesting that the MPCA restore the permit exemption status for air emission facilities that may qualify as conditionally insignificant activities. As part of restoring the permitting exemption under part 7007.0300, subpart 1, item D, part 7008.4000 is modified to specify that the owner or operator of the source must comply with the requirements in parts 7008.4000 to 7008.4110 in order to qualify for the exemption. This change remedies a gap in federal enforceability by making compliance with parts 7008.4100 and 7008.4110

mandatory if it is relied upon for a permit exemption. This change is reasonable because it clarifies for owners and operators the requirements they must comply with that allow them to be exempt from an air permit.

#### *Part 7008.4000*

*If operated in compliance with this part and parts 7008.4100 and 7008.4110, the activities and operation of the emissions units listed in parts 7008.4100 and 7008.4110 are insignificant activities for purposes of parts 7007.0100 to 7007.1850. To qualify for the exemption from permitting in part 7007.0300, subpart 1, item D, subitem (2) or (3), the owner or operator of a stationary source that has the potential to emit any pollutant in excess of a permitting threshold in chapter 7007 must comply with the requirements of parts 7008.4000 to 7008.4110. Listing in part 7008.4100 or 7008.4110 has no effect on any other law, including laws enforced by the agency other than parts 7007.0100 to 7007.1850, to which the activity may be subject.*

*The activities described in parts 7008.4100 and 7008.4110 must be listed in a permit application, and calculation of emissions from these activities shall be provided if required by the agency, under part 7007.0500, subpart 2, item C, subitem (2). If emissions units listed in part 7008.4100 or 7008.4110 are subject to additional requirements under section 114(a)(3) of the act (Monitoring Requirements) or section 112 of the act (Hazardous Air Pollutants), or if part of a title I modification, or, if accounted for, make a stationary source subject to a part 70 permit, emissions from the emissions units must be calculated in the permit application.*

54. The MPCA finds that this modification does not make the proposed rule substantially different. The Notice provided fair warning that the rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected. The modification is clearly within the scope of "Subject of the Rules" Chapter 7008, as announced in the Notice, and is related to changes to conditionally insignificant activities requirements. The modification is a logical outgrowth of the Notice as it is a result of the comments submitted in response to the Notice. The effect of the change is to continue exemptions from permitting that existed prior to this rulemaking, but to do so the MPCA has modified the requirements in the rule to meet the definition of federally enforceable rules.

#### **7008.4100 CONDITIONALLY INSIGNIFICANT MATERIAL USAGE**

##### **Change to Part 7008.4100, subpart 2**

55. The AASP-MN submitted comments expressing concern about the proposed rule changes broadening the materials included in the limits to qualify as a "conditionally insignificant activity." The commenter noted that existing rule requires auto body repair shops to track only the VOC content of the materials they are using; the proposed rule change would add the tracking of hazardous air pollutants (HAPs) and particulate matter content of materials as well. The Chamber noted in their comments that there are expanded record keeping and reporting requirements along with the additional limits.
56. For owners or operators with conditionally insignificant activities who are using parts 7008.4000 to 7008.4110 to qualify as a source that is not required to obtain a permit under part 7007.0300, subpart 1, item D, the record keeping is needed to ensure that the exemption from permitting that they rely on is federally recognized. The permitting exemptions under part 7007.0300, subpart 1, item D are not recognized by federal law. To ensure that sources that rely on the exemptions are not in violation of federal law for failure to obtain a permit, the MPCA must include requirements that make the exemptions federally enforceable. Imposition of an emissions limit coupled with record keeping and reporting ensures that the exemption from permitting can be federally recognized. Without the required record keeping, the owner or operator cannot show that they are in compliance with the rule, and therefore, are unable to demonstrate that they do not need a permit.

57. The MPCA can satisfactorily address the commenters' concern about expanded difficulty of record keeping by not requiring the tracking and calculating of HAP emissions. Since most HAPs are emitted as a VOC or as a particulate, and the emission of HAPs is largely limited by placing limits on VOCs and particulate matter, the MPCA will not require the tracking of HAPs at these sources. The part 7007.0300, subpart 1, item D exemptions are intended to apply to very small sources whose actual HAP emissions are now limited by the VOC and particulate matter limits being adopted in this rulemaking. Therefore, part 7008.4100 subparts 2 and 3 are modified to delete references to HAP limits, record keeping, and reporting. Subpart 2, item B describing HAPs from material usage activities, and subpart 5, describing HAPs emissions calculations, are deleted in their entirety. The items in subpart 2 are renumbered as a result of multiple deletions.
58. The Fond du Lac Band commented that the unit of measurement for VOCs emissions is mass (pounds or tons), and that the 2,000 pounds is not necessarily equivalent to 200 gallons. The MPCA agrees that the structure of the text did not create and impose the emission limits properly. Subpart 2 is modified to add the condition in item A that the limit applies to all activities so that it is understood that the conditions apply to all limits itemized in items A and B. The VOC limit in subpart 2, item A is modified to clarify that VOC use is limited to 200 gallons. Additionally, the title "VOCs" is added to item A to identify applicable requirements for a source using this rule.
59. During its evaluation of the comments, the MPCA determined that it must modify the structure of the particulate matter limits by clarifying that particulate matter, PM-10, and PM-2.5 are three separate pollutants and must be calculated individually. It is reasonable to clarify language to prevent a possible interpretation that the MPCA did not intend. Subpart 2, item C is modified to clarify that emissions are calculated for each type of particulate matter pollutant, for all conditionally insignificant activities. Modified item C is now item B and the title "Particulate matter" is added to identify applicable requirements for a source using this rule.
60. Stationary sources that operate spray coating equipment, such as auto body shops and printers, will continue to be subject to the emission limits of this part, including the proposed particulate matter, PM-10, and PM-2.5 limits. During its evaluation of the comments, the MPCA recognized that the proposed threshold for particulate matter, PM-10, and PM-2.5 of 2,000 pounds, in part 7008.4100, subpart 2, item B, is too low to exempt most of the intended sources from permitting. Therefore, the proposed threshold of 2,000 pounds is modified to 8,000 pounds. This threshold of four (4) tons of actual particulate matter emissions per year is used by a number of other states to exempt small sources. Therefore, most if not all current small sources will continue to be exempt from permitting, provided that they keep records of materials used in order to demonstrate compliance.

*Part 7008.4100, Subp. 2*

*Subp. 2. **Material usage limits.** The owner or operator must ~~meet the limits in items A to C for limit emissions from all material usage as provided in items A and B~~ at the stationary source to qualify as a conditionally insignificant activity under this part.*

*A. VOCs. The owner or operator must limit VOC emissions of VOCs from all material usage activities at the stationary source to less than 200 gallons or 2,000 pounds, or VOC usage to less than 200 gallons, in each calendar year period calculated according to the method in subpart 4. All VOC emissions from all material usage activities at the stationary source must be accounted for in the annual calculation. This limit applies regardless of the hazardous air pollutant content of the VOC.*

*B. The owner or operator must limit emissions of all hazardous air pollutants from all material usage activities at the stationary source to less than 200 gallons or 2,000 pounds in each calendar year period*

~~calculated according to the method in subpart 5. All hazardous air pollutant emissions from all material usage activities at the stationary source must be accounted for in the annual calculation.~~

~~C. Particulate matter. The owner or operator must limit emissions of particulate matter, PM-10, and PM-2.5 to less than 2,000 8,000 pounds each in each calendar year period calculated according to the method in subpart 4-5. All particulate matter, PM-10, and PM-2.5 emissions from all material usage activities at the stationary source must be accounted for in the annual calculation. This limit applies regardless of the hazardous air pollutant content of the particulate matter.~~

### Change to Part 7008.4100, subpart 3

61. As explained above in Findings No. 55 through 57, the MPCA will not require owners and operators to track HAPs at these sources. Therefore, subpart 3, describing record keeping for material usage, is modified to delete references to the tracking of HAPs usage, and the items in subpart 3 are renumbered as a result of the deletion of item B.

#### Part 7008.4100, Subp. 3

Subp. 3. **Record keeping.** The owner or operator of a stationary source claiming material usage as a conditionally insignificant activity must:

A. maintain records for each calendar year of the number of gallons of VOC-containing materials purchased or used and the maximum VOC content of each material;

~~B. maintain records for each calendar year of the number of gallons of hazardous air pollutant-containing materials purchased or used and the maximum hazardous air pollutant content of each material;~~

~~C. B.~~ maintain records for each calendar year of the number of gallons of solids-containing materials purchased or used and the maximum solids content of each material;

~~D. C.~~ maintain a record of the material safety data sheet (MSDS), or a signed statement from the supplier stating the maximum VOC content, ~~the maximum hazardous air pollutant content,~~ and the maximum solids content for each material;

~~E. D.~~ if the owner or operator ships waste material from material usage activities off-site for recycling, keep records of the amount of material shipped off-site for recycling, the VOC content ~~and hazardous air pollutant content of the waste materials~~ shipped off-site for recycling, and the calculations done to determine the amount of VOC ~~and hazardous air pollutants~~ to subtract. Acceptable records include: the material safety data sheets, invoices, shipping papers, and/or hazardous waste manifests;

~~F. E.~~ if a material usage activity includes spray application of material and the owner or operator chooses to apply the transfer efficiency in calculations, maintain information on the type of spray application equipment and transfer efficiency; and

~~G. F.~~ if requested by the commissioner, calculate and record for any of the previous five calendar years:

(1) the VOC emissions using the method in subpart 4;

(2) ~~the hazardous air pollutant emissions using the method in subpart 5;~~

(3) the particulate matter, PM-10, and PM-2.5 emissions using the method in subpart 4-5;

(4)(3) the calculation used to arrive at the total for each of subitems (1) ~~to (3)~~ and (2); and

(5)(4) a list of the associated emissions units in which the material was used.

### Change to Part 7008.4100, subpart 5

62. As explained above in Findings No. 55 through 57, the MPCA will not require the tracking of HAPs at these sources. Therefore, subpart 5, describing HAPs emissions calculations, is deleted in its entirety.

Part 7008.4100, Subp. 5

~~Subp. 5. **Calculating total hazardous air pollutant emissions.** An owner or operator claiming material usage as a conditionally insignificant activity must calculate total hazardous air pollutant emissions using one of the methods in item A or B. If the owner or operator ships waste materials from material usage activities off-site for recycling, the amount of hazardous air pollutants recycled may be subtracted from the amount of total hazardous air pollutant calculated in item A or B:~~

~~A. gallons of hazardous air pollutants per calendar year equal gallons of hazardous air pollutant-containing material purchased or used in a calendar year multiplied by the volume percentage of hazardous air pollutants; or~~

~~B. pounds of hazardous air pollutants per calendar year equal gallons of hazardous air pollutant-containing material purchased or used in a calendar year multiplied by the pounds of hazardous air pollutants per gallon or pounds of hazardous air pollutant-containing material purchased or used in a calendar year multiplied by the weight percent of hazardous air pollutants.~~

Change to Part 7008.4100, subpart 6

63. As explained above in Findings No. 59 and 60, the MPCA finds that it must modify the structure of the particulate matter limits by clarifying that particulate matter, PM-10, and PM-2.5 are three separate pollutants and must be calculated individually. Subpart 6 is renumbered because of the deletion of subpart 5.

Part 7008.4100, Subp. 6

~~Subp. 65.~~ **Calculating particulate matter, PM-10, and PM-2.5 emissions.** An owner or operator claiming material usage as a conditionally insignificant activity must calculate particulate matter, PM-10, and PM-2.5 emissions individually using one of the methods in item A or B:

~~A. pounds of particulate matter, PM-10, and PM-2.5 emissions per calendar year equal gallons of solids-containing material purchased or used in a calendar year multiplied by the pounds of solids per gallon; or~~

~~B. pounds of particulate matter, PM-10, and PM-2.5 emissions per calendar year equal pounds of solids-containing material purchased or used in a calendar year multiplied by weight percent of solids per gallon.~~

~~For material usage activities that involve spray application of materials, the owner or operator may apply a transfer efficiency in the calculation of particulate matter, PM-10, and PM-2.5 emissions by multiplying the result determined by item A or B by (1 - transfer efficiency).~~

64. The MPCA finds that these modifications in part 7008.4100 do not make the proposed rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7008 as announced in the Notice. The differences between the modifications and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. The Notice provided fair warning that this rule change could result because the commenters expressed the need for clarification on the point when they commented that the proposed rule relating to the permitting of conditionally insignificant activities required modification. By making the modifications in this part, most-if not all, conditionally insignificant facilities will retain their permitting status prior to rulemaking.

7008.4110 CONDITIONALLY INSIGNIFICANT PM AND PM-10 EMITTING OPERATIONS.

Change to Part 7008.4110, subpart 1

65. The Chamber commented that the existing rule applies to sources emitting particulate matter as a conditionally insignificant activity and noted that the MPCA's proposed changes narrowed the application of this standard to only the activities already listed in this rule as examples. As pointed out by the Chamber, there are many small activities that would no longer qualify under this rule as proposed. The Chamber suggested that the MPCA address any problematic internally venting sources individually rather than changing the rule and impacting all such sources.
66. The MPCA experience with this rule is that owners and operators have expanded the use of part 7008.4110 to categories of emissions units that the MPCA did not intend the rule to cover. The rule was originally intended to address finishing-type activities primarily at smaller sources, such as those provided by example in the rule (buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning equipment). By expanding the application of the rule beyond the examples provided in the rule, the MPCA has identified instances where owners and operators at larger permitted facilities have tried to apply this rule part to emissions units with very high PM and PM-10 potential to emit, thereby removing them from permitting requirements. The MPCA is concerned that these facilities are in fact emitting particulate matter at amounts above permitting thresholds. Inappropriate application of this rule to large sources jeopardizes the source's synthetic minor status under the Prevention of Significant Deterioration program and could result in enforcement action.
67. MPCA finds merit in further examination of expanding the activities covered under this part but cannot modify the rule in this rulemaking to sufficiently address the many issues that are involved. Additional stakeholder input and data gathering will be necessary to amend this part so that it is federally enforceable and contains the conditions that adequately limit a source's potential to emit in the most efficient manner. That work will be done in a future rulemaking. Therefore, the MPCA is not adopting the proposed amendments to subparts 1 and 2 of this part that pertain to these concerns. However, the MPCA will retain the proposed amendments to subpart 3 because without specified compliance methods, these activities are not federally exempt from permitting. See comment 20 in the MPCA's Response to Comments (Attachment 1). The modifications to proposed subparts 1 and 2 restore the existing rule before this rulemaking was undertaken. The pollutant PM-2.5 was not regulated in the existing rule, so it is deleted in its entirety.
68. The modifications to proposed subpart 1 restore the existing rule before this rulemaking was undertaken. Subpart 1 is modified to delete the proposed rule language, and to add the original language that was struck from the existing rule.

*Part 7008.4110, Subp. 1*

*Subpart 1. **Applicability.** This part applies to any the owner or operator of a stationary source claiming finishing operations that emit only particulate matter (PM) or particulate matter of less than ten microns (PM10 PM-10) venting equipment, PM-10, or PM-2.5 as a conditionally insignificant activity and applies to activities that emit only PM, PM-10, or PM-2.5. For purposes of this part, "finishing operations" means buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning ceramic, leather, metal, plastic, masonry, carbon, wood, or glass.*

**Change to Part 7008.4110, subpart 2**

69. The modifications to proposed subpart 2 restore the existing rule before this rulemaking was undertaken. The definition of "finishing operations" is restored by deleting it from subpart 1 and restoring it to subpart 2.



*Part 7008.4110, Subp. 2*

*Subp. 2. **Requirements.** Emissions from ~~equipment venting finishing operations that emit PM or PM<sub>10</sub>, PM-10, PM<sub>10</sub>, or PM-2.5~~ inside a building, for example: buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning equipment, must be:*

- A. filtered through an air cleaning system; and*
- B. vented inside of the building 100 percent of the time.*

**Change to Part 7008.4110, subpart 3**

70. The modifications to proposed subpart 3 are needed to be consistent with the modifications to proposed subparts 1 and 2, including adding the reference to the equipment this subpart applies to. The pollutant PM-2.5 was not regulated in the existing rule in subparts 1 or 2, so it is deleted in subpart 3.

*Part 7008.4110, Subp. 3*

*Subp. 3. **Monitoring and record keeping.** ~~An owner or operator of a~~ A stationary source claiming ~~finishing operations that emit PM, or PM-10, or PM-2.5~~ venting equipment as a conditionally insignificant activity must:*

- A. operate the air cleaning system as required by the manufacturer's specification and part 7008.0200, item D;*
- B. inspect the air cleaning system as required by the manufacturer's specification;*
- C. maintain the air cleaning system according to the manufacturer's specification; and*
- D. maintain a record of inspection, maintenance, and repair activities for the air cleaning system for at least five years.*

71. The MPCA finds that these modifications in part 7008.4110 do not make the proposed rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7008 as announced in the Notice. The differences between the modifications and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. The Notice provided fair warning that this rule change could result because the commenters expressed the need for clarification on the point when they commented that the proposed rule required modification. By making the modifications in this part, conditionally insignificant facilities will retain their permitting status prior to rulemaking. The MPCA plans to address the concerns raised by the commenters in a future rulemaking.

**7009.0010 DEFINITIONS.**

**Change to Part 7009.0010, subpart 1a**

72. During the public comment period on the rule, the MPCA determined that the second sentence of the proposed definition for "averaging time" could cause confusion. Specifically, the second sentence of the definition describes the mathematical operations used to calculate the average, but may contradict calculations for standards that rely on alternative averaging methods, such as a geometric mean. To prevent the confusion, subpart 1a is modified to delete the second sentence in the definition. This change is reasonable because it eliminates potential confusion with the procedures specified in *Minn. R. 7009.0050*.

*Part 7009.0010, Subp. 1a*

*Subp. 1a. **Averaging time.** "Averaging time" means the time period specified in part 7009.0080 over which air pollution concentration data are averaged in preparation for comparison to the ambient air quality standard. ~~The average is calculated by summing all data points for the time period and dividing by the number of data points.~~*

73. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7009 as announced in the Notice. The modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result. The effect of the modification does not differ from the effect of the proposed rule because it does not change the meaning of the term "averaging time."

## 7009.0080 MINNESOTA AMBIENT AIR QUALITY STANDARDS.

### Change to Part 7009.0080, Ozone

74. On October 26, 2015, the USEPA codified revisions to the National Ambient Air Quality Standards (NAAQS) for ozone. As a result of these revisions, the level of the 8-hour ozone standard has been reduced from 75 ppb to 70 ppb. To be consistent with federal regulations, the MPCA is revising the state ozone standard to 70 ppb. One of the primary purposes of this rulemaking is to update certain MPCA air rules so that they are consistent with federal rule.

#### *Part 7009.0080*

<i>Ozone</i>	<del>75</del> <u>70</u> ppb by volume ( <del>150</del> <u>137</u> micrograms per cubic meter)	<i>Same as primary standard</i>	<i>8-hour</i>	<i>3-year average of the annual fourth high daily maximum 8-hour concentration does not exceed standard</i>
--------------	--	---	---------------	---

75. The MPCA finds that these modifications do not make the proposed rule substantially different and are clearly within the scope of the "Subject of Rules" Chapter 7009 as announced in the Notice.

### Change to Part 7009.0080, Sulfur Dioxide

76. The Chamber commented that the conversions of the standard to micrograms included in the parentheses in part 7009.0080 are not consistent with USEPA's conversion methods and should be removed or recalculated to reflect the specific form and rounding conventions contained in 40 CFR Part 50.
77. The MPCA has considered the Chamber's request to remove or revise the parenthetical concentrations proposed for part 7009.0080. The MPCA finds that the continued inclusion of the parenthetical concentrations is beneficial for some stakeholders; therefore, the MPCA is not removing the parenthetical concentrations in this rulemaking. The MPCA also evaluated whether the parenthetical concentrations should be revised to reflect the specific form and rounding conventions contained in 40 CFR Part 50. The MPCA disagrees that the parenthetical concentrations in the "Level of the standard" column of part 7009.0080 must reflect the rounding conventions contained in 40 CFR Part 50. Rather, the parenthetical concentrations should be a direct unit conversion of the

level of the standard from the default units to the alternate units, assuming standard temperature and pressure. Instructions for data handling, including rounding are specified in part 7009.0050 or applicable guidance.

78. During the MPCA's review of the Chamber's comment, however, the MPCA identified errors in the parenthetical concentration for the sulfur dioxide standards. The MPCA is modifying the parenthetical concentrations for the annual, 24-hour, 3-hour, and 1-hour sulfur dioxide standards such that they are a direct conversion from the default units of parts per billion (ppb) to micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), assuming standard temperature and pressure.

*Part 7009.0080*

<i>Sulfur Dioxide</i>	<i>30 ppb by volume (<del>80-79</del> micrograms per cubic meter)</i>	<i>Annual average</i>	<i>Annual average concentration does not exceed standard</i>
	<i>140 ppb (<del>365</del> <u>367</u> micrograms per cubic meter)</i>	<i>24-hour</i>	<i>Annual second-high 24-hour concentration does not exceed standard</i>
	<i>500 ppb by volume (<del>1,300</del> <u>1,310</u> micrograms per cubic meter)</i>	<i>3-hour</i>	<i>Annual second-high 3-hour concentration does not exceed the standard</i>
	<i>75 ppb (<del>196</del> <u>197</u> micrograms per cubic meter)</i>	<i>1-hour</i>	<i>3-year average of the annual 99th-percentile daily maximum 1-hour concentration does not exceed standard</i>

79. The MPCA finds that these modifications do not make the proposed rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7009 as announced in the Notice. The change corrects an error in the unit conversion from default units to alternate units for the sulfur dioxide standards. The modifications are a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result.

#### Change to Part 7009.0080, Total Suspended Particulate

80. During the public comment period on the rule, the MPCA determined that the form of the standard for the annual total suspended particulate standard was incorrectly listed as "annual average concentration does not exceed standard." The form of the annual total suspended particulate standard should read "annual geometric mean concentration does not exceed standard." Part 7009.0080 is modified to delete "average" and add "geometric mean" in referring to the form of the standard to be used for the annual total suspended particulate standard. This change is reasonable because it corrects an error in the listing.

##### *Part 7009.0080*

<i>Total</i>	<i>75</i>	<i>60</i>	<i>Annual</i>	<i>Annual <del>average</del></i>
<i>Suspended</i>	<i>micrograms</i>	<i>micrograms</i>	<i>average</i>	<i><u>geometric mean</u></i>
<i>Particulate</i>	<i>per cubic</i>	<i>per cubic</i>		<i>concentration</i>
	<i>meter</i>	<i>meter</i>		<i>does not exceed</i>
				<i>standard</i>
	<i>260</i>	<i>150</i>	<i>24-hour</i>	<i>Annual</i>
	<i>micrograms</i>	<i>micrograms</i>		<i>second-high</i>
	<i>per cubic</i>	<i>per cubic</i>		<i>24-hour</i>
	<i>meter</i>	<i>meter</i>		<i>concentration</i>
				<i>does not exceed</i>
				<i>standard</i>

81. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7009 as announced in the Notice, and corrects an error that was inadvertently introduced in the proposed rule.

#### Change to Part 7009.0080

82. The Chamber commented that the use of the phrase "quarterly-weighted average" to describe the form of the PM-2.5 annual standard is inappropriate, as no weighting is applied to the federal PM-2.5 annual standard.
83. In the proposed rule, the MPCA used the phrase, "quarterly-weighted average" to reflect the calculation methodologies included in 40 CFR Part 50, Appendix N, which provides the methodology for interpreting the NAAQS for PM-2.5. The form of the federal PM-2.5 annual standard is a seasonally-weighted annual average concentration, averaged over three-years. To calculate the seasonally-weighted annual average concentration, Appendix N specifies that the annual average shall be calculated by taking the average of each separately calculated quarterly average. Due to the subjectivity associated with the phrase "seasonally-weighted average," the MPCA included the more precise phrase, "quarterly-weighted average" in part 7009.0080.

84. The MPCA agrees that the difference in terminology between the state and federal rules may create confusion. Part 7009.0080 is modified by replacing the phrase “quarterly-weighted average” with the phrase “seasonally-weighted average.” This change is reasonable because it provides consistency with the terminology used in 40 CFR Part 50, Appendix N for the PM-2.5 calculation methodologies.

*Part 7009.0080*

<i>PM-2.5</i>	<i>35 micrograms per cubic meter</i>	<i>Same as primary standard</i>	<i>24-hour</i>	<i>3-year average of the annual 98th-percentile 24-hour concentration does not exceed the standard</i>
	<i>12.0 micrograms per cubic meter</i>	<i>15.0 micrograms per cubic meter</i>	<i>Annual average</i>	<i>3-year average of the annual <del>quarterly-</del> <u>seasonally-</u> weighted average does not exceed the standard</i>

85. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the “Subject of Rules” Chapter 7009 as announced in the Notice, is a logical outgrowth of the Notice and comments process, and the Notice provided fair warning that this rule change could result because the commenter requested the change when they commented on the rule.

**7009.0090 NATIONAL AMBIENT AIR QUALITY STANDARDS.**

**Change to Part 7009.0090**

86. The Chamber commented on the incorporation of the NAAQS by reference and identified several incorrect and/or incomplete references to the current NAAQS. The Chamber provided proposed language to correct these errors.
87. The MPCA has reviewed the federal rules referenced in part 7009.0090 and acknowledges the inadvertent errors and/or omission of applicable standards. Part 7009.0090 is revised to reflect the correct and complete references to the federal standards. It is reasonable to make these modifications to correct the federal rule citations.

88. In addition, during the MPCA's review, to provide clarity in the interpretation and applicability of the NAAQS, the MPCA identified the need to incorporate a reference to 40 CFR Part 50 which contains the definitions and methodologies used by the MPCA to determine compliance with these standards, and to support Minnesota Ambient Air Quality Standards (MAAQs) and NAAQS air quality modeling demonstrations. Therefore, the MPCA is modifying part 7009.0090 to add a reference to part 7009.0050.

*Part 7009.0090*

*The following national ambient air quality standards, established pursuant to section 109 of the Clean Air Act, are adopted and incorporated by reference: Interpretation of the standards and measurements made to determine compliance with these standards must be performed as specified in part 7009.0050:*

- A. sulfur dioxide (SO<sub>2</sub>), Code of Federal Regulations, title 40, sections ~~50.4(b) and 50.5(a)~~ 50.4, 50.5, and 50.17, as amended;*
- B. PM-10, Code of Federal Regulations, title 40, sections ~~50.6(a)~~ 50.6, as amended;*
- C. PM-2.5, Code of Federal Regulations, title 40, ~~section 50.7(a)~~ sections 50.13 and 50.18, as amended;*
- D. carbon monoxide (CO), Code of Federal Regulations, title 40, section ~~50.8(a)(1) and (2)~~ 50.8, as amended;*
- E. ozone (O<sub>3</sub>), Code of Federal Regulations, title 40, sections ~~50.9(a) and 50.10(a)~~ 50.9 and 50.19, as amended;*
- F. nitrogen dioxide (NO<sub>2</sub>), Code of Federal Regulations, title 40, section ~~50.11(a) and (b)~~ 50.11, as amended; and*
- G. lead (Pb), Code of Federal regulations, title 40, section ~~50.12~~ 50.16, as amended.*

89. The MPCA finds that these modifications do not make the proposed rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7009 as announced in the Notice. The modifications are a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because the commenter requested the change when they commented on the rule.

**7011.0070 LISTED CONTROL EQUIPMENT AND CONTROL EQUIPMENT EFFICIENCIES.**

**Change to Part 7011.0070, subpart 1a, item A**

90. The MPCA finds that with the deletion of the proposed definition for "condensable particulate matter," as described in Finding No. 17, part 7011.0070, subpart 1a, item A must be modified to add "organic or inorganic" to the term "condensable particulate matter." This change relates to the same subject matter as the originally proposed rule but further clarifies the exact fractions of particulate matter considered for compliance demonstration purposes (see SONAR page 43). It is reasonable to provide consistent use of terms throughout the rule.

*Part 7011.0070, Subp. 1a.A*

*Subp. 1a. **Exceptions where control efficiency disallowed.** The owner or operator may not use a control efficiency listed in Table A if:*

- A. the commissioner determines that the listed efficiency is inapplicable or is not representative of the source due to complexity of the process or source of emissions, lack of reliable data, presence of a pollutant*

*or constituent such as organic or inorganic condensable particulate matter or an organic compound significantly more difficult to control than the overall VOC gas stream that makes the categorical efficiency nonrepresentative, or other site-specific conditions; or*

91. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice, and is a logical outgrowth of the Notice and comments process. The effects of the modification are not different from the proposed rule; the Notice provided fair warning that the rule would result in further definition related to the forms of particulate matter.

#### **7011.0615 PERFORMANCE TEST METHODS.**

##### **Change to Part 7011.0615, item C**

92. The MPCA finds that with the deletion of the proposed definition for "condensable particulate matter," as described in Finding No. 17, part 7011.0615, item C must be modified to add "organic" to the term "condensable particulate matter." This change relates to the same subject matter as the originally proposed rule but further clarifies the exact fractions of particulate matter considered for compliance demonstration purposes (see SONAR page 43). It is reasonable to provide consistent use of terms throughout the rule.

##### *Part 7011.0615, Item C*

*Unless another method is approved by the agency, any person required to submit performance tests for direct heating equipment must use the following test methods to demonstrate compliance:*

- A. Method 1 for selection of sampling site and sample traverses;*
- B. Method 3 for gas analysis;*
- C. Method 5 for concentration of filterable particulate matter and the associated moisture content and Method 202 for concentration of organic condensable particulate matter;*
- D. Method 6 for concentration of SO<sub>2</sub>; and*
- E. Method 9 for visual determination of opacity.*

93. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice and is a logical outgrowth of the Notice and comments process. The effects of the modification are not different from the proposed rule; the Notice provided fair warning that the rule would result in further definition related to the forms of particulate matter.

#### **7011.0720 PERFORMANCE TEST METHODS.**

##### **Change to Part 7011.0720, item D**

94. During the public comment period on the rule, the MPCA found that a correction in the spelling of "condensable" in part 7011.0720, item D is needed. Item D is modified to delete "condensable" and add "condensable" so that the correct spelling of the word is used throughout the rules. This change is consistent with the same correction made in the proposed rules (see SONAR page 41). The subject matter is the same as the originally proposed rule and only corrects the spelling to be uniform throughout the rule.

*Part 7011.0720, Item D*

*Unless another method is approved by the agency, any owner or operator required to submit performance tests for any industrial process equipment must use the following test methods to demonstrate compliance:*

- A. Method 1 for sample and velocity traverses;*
- B. Method 2 for velocity and volumetric flow rate;*
- C. Method 3 for gas analysis;*
- D. Method 5 for the concentration of filterable particulate matter and associated moisture content and Method 202 for the concentration of organic ~~condensibles~~ condensables; and*
- E. Method 9 for visual determination of the opacity of emissions from stationary sources.*

95. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice and is a logical outgrowth of the Notice and comments process. The effects of the modification are not different from the proposed rule; the Notice provided fair warning that the rule would result in further definition related to the forms of particulate matter.

**7011.1270 PERFORMANCE TEST, WASTE COMPOSITION STUDY, AND ASH SAMPLING FREQUENCY.**

**Change to Part 7011.1270, item A, subitem (5); item B, subitem (3); item C, subitem (3); and item E**

96. During the MPCA's review of the administration and implementation of the proposed rules, the MPCA determined that the proposed amendment at part 7007.1400, subpart 1, item K, which eliminated the option to use an administrative amendment "to include operating conditions that ensure waste combustors emit mercury at less than 50 percent of the applicable standard" should have had a coordinating amendment in part 7011.1270, item A, subitem (5); item B, subitem (3); item C, subitem (3); and item E. Therefore, these items are modified to delete the reference to "...and the owner or operator has submitted a request for an administrative amendment according to the procedures of part 7007.1400." As described in the SONAR, (page 27) for part 7007.1400, subpart 1, item K, waste combustor permits are written such that this type of change can be made without a permit amendment. It is reasonable to make this change to align part 7011.1270 with the proposed rules at part 7007.1400.

*Part 7011.1270, Item A(5), Item B(3), Item C(3), and Item E*

*The owner or operator of a waste combustor shall conduct the performance tests required in part 7011.1265, subpart 5, based on the schedules in items A to E.*

- A. Class A waste combustors shall conduct performance tests as described in subitems (1) to (6).*
  - (5) From Class A waste combustors that are not burning RDF, for mercury emissions every three months.*

*The facility may implement testing for mercury not less than once every 12 months under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility's permitted long-term limit for three consecutive years; and the owner or operator has submitted a request for an administrative amendment according to the procedures of part 7007.1400.*

*Waste combustors combusting RDF may choose to conduct performance tests for mercury every 12 months. If a test shows that an emission limit for mercury from a waste combustor combusting RDF is exceeded, the commissioner shall require testing every three months thereafter until compliance with the standard is demonstrated.*



B. Class II and C waste combustors shall conduct performance tests as described in subitems (1) to (4).

(3) For mercury emissions, Class C waste combustors shall commence testing June 20, 1995, and continue testing every 90 days until August 1, 1997. Thereafter, Class C waste combustors that are not burning RDF shall conduct mercury emissions testing every three months.

The facility may implement testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility's permitted long-term limit for three consecutive years; ~~and the owner or operator has submitted a request for an administrative amendment according to the procedures of part 7007.1400.~~

If a facility is granted testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, and a mercury performance test shows mercury emissions greater than 50 percent of the facility's permitted mercury limit, the facility shall conduct annual mercury stack sampling until emissions are below 50 percent of the facility's permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility's permitted limit, the facility may resume testing every three years, upon notifying the commissioner in writing.

Waste combustors combusting RDF may choose to conduct performance tests for mercury emissions every 12 months. If a test shows that emission limits for mercury from a waste combustor combusting RDF are exceeded, the commissioner shall require performance testing every three months until compliance is demonstrated.

C. Class III and D waste combustors shall conduct performance tests as described in subitems (1) to (6).

(3) For Class III waste combustors, emissions of mercury, every three months.

The facility may implement testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility's permitted long-term limit for three consecutive years; ~~and the owner or operator has submitted a request for an administrative amendment according to the procedures of part 7007.1400.~~

If a facility is granted testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, and mercury performance test shows mercury emissions greater than 50 percent of the facility's permitted mercury limit, the facility shall conduct annual mercury stack sampling until emissions are below 50 percent of the facility's permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility's permitted limit, the facility may resume testing every three years, upon notifying the commissioner in writing.

D. Class IV waste combustors shall conduct performance tests:

(1) once within the normal start-up;

(2) every five years after the test in subitem (1), but not more than 60 months following the initial performance test; and

(3) for ash, in accordance with part 7045.0131 every 60 months for toxic characteristic leach procedure for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and nickel.

E. Class I waste combustors shall conduct performance tests for mercury emissions every three months for waste combustors that are not burning RDF.

The facility may implement testing for mercury not less than once every 12 months under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility's permitted long-term limit for three consecutive years; ~~and the owner or operator has submitted a request for an administrative amendment according to the procedures of part 7007.1400.~~

*Waste combustors combusting RDF may choose to conduct performance tests for mercury every 12 months. If a test shows that an emission limit for mercury from a waste combusting RDF is exceeded, the commissioner shall require testing every three months thereafter until compliance with the standard is demonstrated.*

97. The MPCA finds that these modifications do not make the rule substantially different and are clearly within the scope of the "Subject of Rules" Chapter 7007 and 7011 as announced in the Notice. The Notice provided fair warning that the rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected. The conditions of this rule were adopted in 1994, and the affected facilities have all completed emissions testing and re-permitting under the existing provision, meaning that the need for an administrative amendment to their operating permits is no longer necessary. The effect of the modification to part 7011.1270 means that the rule now aligns with the permitting rules in part 7007.1400.

#### **7011.1280 OPERATOR CERTIFICATION.**

##### **Change to Part 7011.1280, subpart 7, item A**

98. The Fond du Lac Band commented that at part 7011.1280, subpart 7, item A, subitem (1), there is a reference to Class D waste combustors whereas other references to Class D waste combustors were removed from several other pages. The MPCA has reviewed the rule and agrees with the commenter. Subpart 7, item A, subitem (1) is modified to delete the reference to Class D.

*Part 7011.1280, subp. 7A*

##### *Subp. 7. Renewal.*

*A. A certified individual shall apply for certificate renewal no later than 30 days prior to certificate expiration. The application for renewal must include evidence that the person has, during the preceding three years, earned credit for attending training courses in the direct operation and maintenance of and environmental compliance for a waste combustor, including personnel training described in part 7011.1275, for the number of hours as identified as follows:*

- (1) Class I, II, III, A, or C, ~~or D~~, 24 hours; and*
- (2) Class IV, eight hours.*

*An individual whose certificate has expired must comply with item B or C.*

99. The MPCA finds that this modification does not make the proposed rule substantially different. The Notice provided fair warning that the rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected; the subject matter and issues in the Notice are the same as the subject matter and issues addressed in the change; and the effects of the modification do not differ from the proposed rule.

#### **7011.1405 STANDARDS OF PERFORMANCE FOR EXISTING AFFECTED FACILITIES AT PETROLEUM REFINERIES.**

#### **7011.1410 STANDARDS OF PERFORMANCE FOR NEW AFFECTED FACILITIES AT PETROLEUM REFINERIES.**

##### **Change to Part 7011.1405 and Part 7011.1410**

100. The MPCA proposed to delete the exemption from standards for flares by repealing *Minn. R. 7011.1415* to address USEPA's Finding of Failure with Minnesota's State Implementation Plan (see SONAR page 53). Northern Tier- SPPRC and Flint Hills Resources commented that with the proposed rule, flares become subject to the

emission limits of either part 7011.1405 or 7011.1410, because flares are defined as a “fuel gas combustion device.”

101. The commenters requested that instead the rules be modified to require the compliance with federal standards in the new source performance standard for petroleum refineries, 40 CFR Part 60, Subpart Ja. The MPCA agrees; federal rules address operation of flares during periods of start-up, shutdown and malfunction. As these standards already apply to flares and the MPCA must include these requirements in the facilities' air emission permits, it is reasonable to simply adopt the federal rules. Therefore, the standards of performance for both existing and new affected facilities at petroleum refineries are modified to exempt flares from state standards if the flares are subject to federal standards. The MPCA finds that this alternative will address USEPA's Finding of Failure with Minnesota's State Implementation Plan.

#### *Part 7011.1405*

*Subp. 2. **Fuel gas combustion device and indirect heating equipment.** Flares subject to the conditions of Code of Federal Regulations, title 40, part 60, subpart Ja, are not subject to limits of this subpart. No owner or operator of existing fuel gas combustion devices and indirect heating equipment at a petroleum refinery shall cause to be discharged into the atmosphere from such devices and equipment any gases which contain sulfur dioxide in excess of 1.75 pounds per million Btu (3.15 grams per million cal) heat input. The total emissions of sulfur dioxide from all existing fuel gas combustion devices and all indirect heating equipment shall be divided by the total heat input of all such devices and equipment to determine compliance with this section; provided that no owner or operator shall cause to be discharged from any one fuel gas combustion device or any one unit of indirect heating equipment any gases which contain sulfur dioxide in excess of 3.0 pounds per million Btu (5.4 grams per million cal) heat input.*

#### *Part 7011.1410*

*Subp. 2. **Fuel gas combustion device.** Flares subject to the conditions of Code of Federal Regulations, title 40, part 60, subpart Ja, are not subject to the limits of this subpart. No owner or operator of a new fuel gas combustion device at a petroleum refinery shall burn in any such device any fuel gas which contains H<sub>2</sub>S in excess of 0.10 gr/dscf, (230 mg/dscm) except as provided herein. The owner or operator may elect to treat the gases resulting from the combustion of fuel gas in a manner which limits the release of SO<sub>2</sub> to the atmosphere if it is shown to the satisfaction of the commissioner that this prevents SO<sub>2</sub> emissions as effectively as the H<sub>2</sub>S restriction set forth above.*

102. The MPCA finds that these modifications do not make the proposed rule substantially different. The modifications are clearly within the scope of the “Subject of Rules” Chapter 7011 as announced in the Notice. The differences between the modifications and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. The effects of the modification incorporate federal standards to which affected facilities acknowledge they are already subject.

### **7011.1435 INCORPORATION BY REFERENCE OF NEW SOURCE PERFORMANCE STANDARDS.**

#### **Change to Part 7011.1435**

103. Northern Tier-SPPRC and Flint Hills Resources submitted comments proposing that the MPCA incorporate by reference the new source performance standard for refineries. The MPCA agrees with the commenters and is modifying part 7011.1435 to add new items D and E to incorporate by reference federal standards of

performance for refineries and flares. The delegation process with USEPA requires that the MPCA adopt the federal standards to give them the effect of state law, as explained in the Reasonableness of the Proposed Rule Amendments as a Whole (see SONAR page 5). As a result, it is the MPCA's practice that from time to time, rules are updated to include promulgated federal standards. The MPCA finds that incorporations proposed in new items D and E is consistent with that practice.

#### *Part 7011.1435, Items D and E*

*The following New Source Performance Standards are adopted and incorporated by reference:*

*A. Code of Federal Regulations, title 40, part 60, subpart J, as amended, entitled "Standards of Performance for Petroleum Refineries," except that decisions made by the administrator under Code of Federal Regulations, title 40, sections 60.105(a)(13)(iii) and 60.106(i)(12), are not delegated to the commissioner and must be made by the administrator.*

*B. Code of Federal Regulations, title 40, part 60, subpart GGG, as amended, entitled "Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.592(c), are not delegated to the commissioner and must be made by the administrator. C. Code of Federal Regulations, title 40, part 60, subpart QQQ, as amended, entitled "Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.694, are not delegated to the commissioner and must be made by the administrator.*

*C. Code of Federal Regulations, title 40, part 60, subpart QQQ, as amended, entitled "Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.694, are not delegated to the commissioner and must be made by the administrator.*

*D. Code of Federal Regulations, title 40, part 60, subpart Ja, as amended, entitled "Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.109a(b), are not delegated to the commissioner and must be made by the administrator.*

*E. Code of Federal Regulations, title 40, part 60, subpart GGGA, as amended, entitled, "Standards of Performance for Equipment Leaks of VOCs at Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006."*

104. The MPCA finds that these modifications do not make the proposed rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice. The differences between the modifications and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. This rule is needed to fulfill the MPCA's delegation commitment and to avoid confusion regarding whether the USEPA or MPCA will be responsible for the implementation and enforcement of the standard. The federal rules apply to facilities whether or not the MPCA incorporates the standard into state rule.

#### **7011.1730 INCORPORATION BY REFERENCE OF NEW SOURCE PERFORMANCE STANDARDS.**

##### **Change to Part 7011.1730**

105. Northern Tier-SPPRC and Flint Hills Resources submitted comments proposing that the MPCA incorporate by reference the new source performance standard for refineries. The MPCA agrees with the commenters and is modifying part 7011.1730 to add new item B to incorporate by reference federal standards of performance for Nitric Acid plants, a product that can be produced at refineries. The delegation process with USEPA requires that

the MPCA adopt the federal standards to give them the effect of state law, as explained in the Reasonableness of the Proposed Rule Amendments as a Whole (see SONAR page 5). As a result, it is the MPCA's practice that from time to time, rules are updated to include promulgated federal standards. The MPCA finds that incorporations proposed in new item B is consistent with that practice.

*Part 7011.1730, Item B*

*A. Code of Federal Regulations, title 40, part 60, subpart G, as amended, entitled "Standards of Performance for Nitric Acid Plants," is adopted and incorporated by reference.*

*B. Code of Federal Regulations, title 40, part 60, subpart Ga, as amended, entitled "Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction or Modification Commenced After October 14, 2011," is incorporated by reference.*

106. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice. The differences between the modification and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. This rule is needed to fulfill the MPCA's delegation commitment and to avoid confusion regarding whether the USEPA or MPCA will be responsible for the implementation and enforcement of the standard. The federal rules apply to facilities whether or not the MPCA incorporates the standard into state rule.

**7011.2375 INCORPORATION BY REFERENCE OF NEW SOURCE PERFORMANCE STANDARD FOR STATIONARY COMBUSTION TURBINES.**

**Change to Part 7011.2375**

107. The MPCA proposed to adopt by reference federal standard 40 CFR Part 60, Subpart KKKK. In reviewing the proposed rule for implementation and administration, the MPCA noted it included portions of the federal rule that USEPA specifically reserved to itself and will not delegate to a state. The MPCA is modifying this rule to clarify that *section 60.737(b)* is not delegated to the Commissioner. It is common practice for the MPCA to identify which portions of federal rules the MPCA will accept delegation and which provisions USEPA will retain administrative responsibility.

*Part 7011.2375*

*Code of Federal Regulations, title 40, part 60, subpart KKKK, as amended, entitled "Standards of Performance for Stationary Combustion Turbines," is adopted and incorporated by reference, except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.737(b), are not delegated to the commissioner and must be made by the administrator.*

108. The MPCA finds that this modification does not make the proposed rule substantially different. The federal rules apply to facilities whether or not the MPCA incorporates the standard into state rule. The modification is clearly within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice. The differences between the modification and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. This modification is needed to fulfill the MPCA's delegation commitment and to avoid confusion regarding whether the USEPA or MPCA will be responsible for the implementation and enforcement of the standard.

## 7011.2900 INCORPORATION BY REFERENCE OF NEW SOURCE PERFORMANCE STANDARDS.

### Change to Part 7011.2900

109. Northern Tier-SPPRC suggested that new source performance standards for refineries should be incorporated into Minnesota rules at this time. The MPCA agrees, and modified the rule to add a new item D at part 7011.2900 to incorporate by reference the federal new source performance standard 40 CFR Part 60, Subpart VVa for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. The current delegation agreement between USEPA and the state of Minnesota requires that for a new source performance standard to be delegated to the state for state implementation and enforcement, the standard must first have the force of law in Minnesota. This rule is needed to fulfill the MPCA's delegation commitment and to avoid confusion regarding whether the USEPA or MPCA will be responsible for the implementation and enforcement of the standard. The rules will apply to facilities whether or not the MPCA incorporates the standard into state rule. The MPCA adopts this standard by reference to comply with this condition of the delegation agreement.

#### *Part 7011.2900*

*The following New Source Performance Standards are adopted and incorporated by reference:*

*A. Code of Federal Regulations, title 40, part 60, subpart VV, as amended, entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.482-1(c)(2), are not delegated to the commissioner and must be made by the administrator.*

*B. Code of Federal Regulations, title 40, part 60, subpart III, as amended, entitled "Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.613(e), are not delegated to the commissioner and must be made by the administrator.*

*C. Code of Federal Regulations, title 40, part 60, subpart NNN, as amended, entitled "Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations," except that decisions made by the administrator under Code of Federal Regulations, title 40, section 60.663(e), are not delegated to the commissioner and must be made by the administrator.*

*D. Code of Federal Regulations, title 40, part 60, subpart VVa, as amended, entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006." With this incorporation, reporting requirements of Code of Federal Regulations, title 40, section 60.487a, remain unchanged.*

110. The MPCA finds that this modification does not make the proposed rule substantially different. The modification is within the scope of the "Subject of Rules" Chapter 7011 as announced in the Notice. The differences between the modification and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. The effects of the modification to incorporate by reference federal standards do not differ from the proposed rule because they do not change the meaning or applicability of the federal rules.

## 7011.7050 INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AND PROCESS HEATERS; MAJOR SOURCES.

### Change to Part 7011.7050

111. During the public comment period on the rule, the MPCA found that a correction to the federal citation in part 7011.7050 is needed. Part 7011.7050 is modified to correct the reference so that this rule refers to the proper federal regulation describing delegation of the industrial boiler emission standards. It is reasonable to make a change to correct a federal rule citation.

*Part 7011.7050*

*Code of Federal Regulations, title 40, part 63, subpart DDDDD, as amended, entitled "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters," is incorporated by reference, except that the authorities identified in Code of Federal Regulations, title 40, section ~~63.313(d)~~ 63.7570(b), are not delegated to the commissioner and are retained by the administrator.*

112. This modification does not make the proposed rule substantially different. It simply corrects an error in a citation. The subject matter and issues in the Notice are the same as the subject matter and issues addressed in the change. The effects of the modification are not different from the proposed rule.

**7011.7630 PORTLAND CEMENT KILNS.**

**Change to Part 7011.7630**

113. During the public comment period on the rule, the MPCA found that proposed part 7011.7630, the National Emission Standards for Hazardous Air Pollutants from Portland Cement Manufacturing Industry" is already provided for in existing Minn. R. 7011.7640. Therefore, the MPCA finds that it must modify the rule and delete part 7011.7630. It is reasonable to delete a proposed rule that is duplicative of an existing rule.

*Part 7011.7630*

~~Code of Federal Regulations, title 40, part 63, subpart LLL, as amended, entitled "National Emission Standards for HAPs From the Portland Cement Manufacturing Industry," is adopted and incorporated by reference, except that the decisions made by the administrator under Code of Federal Regulations, title 40, section 63.1358(c), are not delegated to the commissioner and must be made by the administrator.~~

114. The MPCA finds that this modification does not make the rule substantially different. The subject matter is the same as the proposed rule and the effect of the rule remains the same as the proposed rule is duplicative of an existing rule.

**7017.1170 QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR CEMS.**

**Change to Part 7017.1170, subpart 2**

115. The Chamber submitted comments on the subpart 2 Quality Assurance Plan requirements and stated that the proposed rule appears to imply that a Part 75 source would only follow the Part 60 Quality Assurance Plan requirements. The Chamber proposed that subpart 2 be amended to reference the Part 75 Appendix B Quality Assurance/Quality Control Plan requirements as applicable, in addition to the existing Part 60 references. The MPCA agrees that a clarification would be helpful to this rule part.
116. Subpart 2 is modified to add a reference to 40 CFR Part 75, Appendix B to avoid conflicting standards. The modification is not substantially different from the proposed rule in that reference to the Part 75 procedures are

to be adopted wherever allowable and practicable. The Notice provided explanation of this intent and the effect of the rule remains the same as that originally proposed to mirror federal requirements and avoid potential rule conflicts.

*Part 7017.1170, Subp. 2*

*Subp. 2. **Quality assurance plan required.** The owner or operator of the facility must develop and implement a written quality assurance plan that covers each CEMS. The plan must be on site and available for inspection within 30 days after monitor certification. The plan must be revised as needed to keep the plan up to date with the facility's current policies and procedures. The plan must contain all of the information required by Code of Federal Regulations, title 40, part 60, appendix F, section 3, or Code of Federal Regulations, title 40, part 75, Appendix B, as amended. The plan must include the manufacturer's spare parts list for each CEMS and require that those parts be kept at the facility unless the commissioner gives written approval to exclude specific spare parts from the list. The commissioner may approve requested exclusions if the commissioner determines that it is not reasonable to keep a specific part on site after consideration of the consequences of a malfunction of the part, the likelihood of a malfunction, the time required to obtain the part and other pertinent factors.*

117. The MPCA finds that this modification does not make the rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapter 7017 as announced in the Notice. The differences between the modification and the proposed rule are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice.

**Change to Part 7017.1170, subpart 4a, item A**

118. Ottertail Power Company submitted comments suggesting a clarification to subpart 4a, item A which is the requirements for cylinder gas audits. Ottertail Power Company proposes adding clarifying language to subpart 4a, item C stating that units subject to the quality assurance and control requirements for continuous emissions monitoring system (CEMS) in 40 CFR Part 75, fulfill their obligation under part 7017.1170, subpart 4a by complying with the Part 75 requirements. The MPCA agrees that a clarification would be helpful to this rule part.
119. Subpart 4a, item A is modified to incorporate by reference 40 CFR Part 75, Appendix A, 6.2 as an acceptable methodology for completing a monitor cylinder gas audit. Although Part 75 does not use the term cylinder gas audit, the linearity test required in 40 CFR Part 75 is an equivalent and, in fact, a more stringent monitor assessment than the cylinder gas audit tests required in part 7017.1170, subpart 4a. It is reasonable to reference the federal Part 75 procedures wherever allowable and practicable.
120. The MPCA also modified the subpart 4a, item A cylinder gas audit requirement from every "other" to every "second" quality assurance operating quarter and deleted "calendar" to further reduce any confusion related to the cylinder gas audit due dates. Changing from every "other" to every "second" provides a clearer due date. Deleting "calendar" is reasonable since the cylinder gas audit frequency will be based on quality assurance operating quarters defined in rule and therefore, reference to "calendar" is no longer needed.

*Part 7017.1170, Subp. 4a.A*

**Subp. 4a. Cylinder gas audit.**

*A. The owner or operator must complete the initial cylinder gas audit (CGA) within 180 days following certification of the CEMS. The owner or operator must conduct subsequent CGAs on each concentration*



*and diluent monitor on each CEMS no later than the end of every ~~other~~ second QA operating quarter, regardless of whether the quarters are consecutive ~~calendar quarters~~. The audit must be performed, according to Code of Federal Regulations, title 40, part 60, Appendix F, section 5.1.2, or Code of Federal Regulations, title 40, part 75, Appendix A, section 6.2, as amended. As part of each quarterly excess emission report, the owner or operator must submit notification of any exception to CGA frequency that is used during the reporting period. A CGA is not required during any ~~calendar half-year~~ quarter in which a relative accuracy test audit was performed on the CEMS.*

121. The MPCA finds that these modifications do not make the rule substantially different. These modifications relate to the subject matter of setting a specific cylinder gas audit due date while aligning state and federal monitoring requirements and are clearly within the scope of the “Subject of Rules” Chapters 7011 and 7017, as announced in the Notice. The modification is a logical outgrowth of the Notice and comments submitted in response to the Notice. Finally, the Notice provided fair warning that this rule change could result because the commenter proposed adding the procedures in the Code of Federal Regulations for cylinder gas audit tests.

#### **Change to Part 7017.1170, subpart 5a, item B**

122. The Chamber requested relative accuracy test audit (RATA) be completed at only the normal range of the monitor to be consistent with Part 75 requirements. The proposed rule requires a RATA at each monitor range. In an effort to align Minnesota rules more closely with those of Part 75, the MPCA agrees this is a valid change to make. Testing at a secondary range may require a facility to increase emissions to the point of being out of compliance with emission limits. Therefore, subpart 5a, item B is revised to delete “monitor range” of a CEMS.
123. US Steel commented that existing rule language and permit conditions allow for a reduced RATA frequency if the RATA’s accuracy is less than 15%. The MPCA proposed reduced RATA frequency requirements in existing *Minn. R. 7017.1170*, subpart 5a, item C. Subitem (1) proposed that for units that “demonstrate less than 75 percent of the performance specification...the next RATA is due before the end of the sixth subsequent QA operating quarter.” As explained in the SONAR (page 62) this proposed rule was consistent with the existing rule language when the performance specification is 20%. A demonstrated 15% relative accuracy would require no RATA for the following year.
124. To provide clarification, subpart 5a, item B is modified to delete “calendar quarters” and add the reference to the conditions in item C. This change is reasonable because it reduces the likelihood of miscalculation from referral to both QA operating quarters and calendar quarters. It is also reasonable because an audit is still required at the normal range of the monitor and auditing this way achieves the goal of proving the monitor is operating properly. The modification does not change the due date in the proposed rule.

#### *Part 7017.1170, Subp. 5a.B*

*Subp. 5a. **Relative accuracy test audits.** The owner or operator must complete relative accuracy test audits (RATAs) as required by this subpart.*

*A. RATAs must be conducted using the applicable procedures in Code of Federal Regulations, title 40, part 60, Appendix B, or Code of Federal Regulations, title 40, part 75, Appendix A, sections 6.5 to 6.5.2.2, and Appendix B, sections 2.3.1.3 and 2.3.1.4, as amended, as applicable.*

*B. The owner or operator must complete a RATA on each CEMS within 365 days following certification of the CEMS. Subsequent RATAs must be conducted on each ~~monitor range of a~~ CEMS no later than the end of every fourth QA operating quarter, regardless of whether the operating quarters are consecutive ~~calendar quarters~~, unless the conditions in item C apply.*

*C. The owner or operator may conduct less frequent RATAs as described in subitems (1) and (2). The owner or operator must include notification of the reduced frequency or delay in performing a RATA to the commissioner in each quarterly excess emission report during which a RATA would have been due. Nothing in this subpart relieves the owners' or operators' obligation to comply with quality assurance provisions imposed by other applicable requirements or compliance documents.*

125. The MPCA finds that these modifications do not make the rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapters 7011 and 7017, as announced in the Notice, and are a logical outgrowth of the Notice and comments submitted by the commenters in response to the Notice. The Notice provided explanation of this intent and the effects of the modification do not differ from the proposed rule, while further mirroring federal requirements.

#### **Change to Part 7017.1170, subpart 8.**

126. US Steel and the Chamber submitted comments stating that the proposed rule appears to imply that the data substitution requirements do not apply at any time. There are times when data substitution per 40 CFR Part 75 is necessary. For example, for emission inventory purposes, under part 7019.3040, item B, subitem (3), Acid Rain affected units are required to use the data substitution scheme under Part 75, or when Part 60, Appendix F, 4.3.2 and 5.2.2 sections do not apply. The commenters stated this appeared clear in the SONAR but not in the rule. The MPCA agrees and has modified subpart 8 to clarify when monitor data allows for data substitution for sources subject to this part.
127. Data substitution practices are not allowed for units subject to Minnesota rules for compliance demonstration purposes. The reasons for monitoring for Part 75 are different from other standards including Minnesota rules which require continuous compliance with emission limits. Units subject to Minnesota rules must comply with the part 7017.1002 definitions of "out of control" periods and report downtime accordingly. The proposed rule specifies that if a facility is subject to more than one standard, the facility must meet all applicable requirements. The requirements of *Minn. R. 7019.3040* for emissions inventory purposes remain unchanged.
128. Subpart 8 is modified by deleting "emissions calculations" and adding "compliance demonstration" in order to avoid confusion when monitor data allows for data substitution for emissions inventory purposes.

#### *Part 7017.1170, Subp. 8*

*Subp. 8. **Out of control periods.** Data is not considered valid and may not be used for ~~emissions calculations~~ **compliance demonstration** during out of control periods as defined in part 7017.1002. The out of control period is considered downtime and the owner or operator must follow the requirements of Code of Federal Regulations, title 40, part 60, Appendix F, sections 4.3.2 and 5.2.2, as amended. An owner or operator may not apply the data substitution procedures in Code of Federal Regulations, title 40, part 75, as amended, to comply with this part.*

129. The MPCA finds that the modification does not make the rule substantially different. The modification is clearly within the scope of the "Subject of Rules" Chapters 7011 and 7017, as announced in the Notice, and is a logical outgrowth of the Notice and comments submitted in response to the Notice. Finally, the Notice provided fair warning that this rule change could result because the commenters expressed the need for clarification when they commented that the proposed rule appears to imply that the data substitution requirements do not apply at any time.

## 7017.2060 PERFORMANCE TEST PROCEDURES.

### Change to Part 7017.2060, subpart 3, item D

130. The MPCA finds that with the deletion of the proposed definition for “condensable particulate matter,” as described in Finding No. 17, part 7017.2060, subpart 3, item D must be modified to add “organic” to the term “condensable particulate matter.” This modification relates to the same subject matter as the originally proposed rule but further clarifies the exact fractions of particulate matter considered for compliance demonstration purposes (see SONAR page 43). It is reasonable to provide consistent use of terms throughout the rule. Additionally, it has been the MPCA’s practice to amend rules to eliminate these mandatory conditions wherever possible, and redirect the focus of a rule to the subject being regulated; therefore, the rule is modified to remove the condition requiring the commissioner to approve the exclusion.

#### *Part 7017.2060, subp.3D*

*Subp. 3. **Particulate matter determination.** The owner or operator must conduct particulate matter emission tests as required in this subpart.*

*D. When submitting a proposed test plan, an owner or operator may apply to the commissioner to exclude organic condensable particulate matter from a performance test for particulate matter. The ~~commissioner shall approve the exclusion if the owner or operator demonstrates~~ must demonstrate:*

- (1) through previous performance test results that the emissions unit is not a source of organic condensable particulate matter emissions; or*
- (2) that an exception in Method 202, section 1.4(h), as amended, applies.*

131. The MPCA finds that these modifications do not make the rule substantially different. The modifications are clearly within the scope of the “Subject of Rules” Chapters 7011 and 7017 as announced in the Notice, and are a logical outgrowth of the Notice and comments process. The effects of the modification do not differ from the proposed rule; the Notice provided fair warning that the rule would result in further definition related to the forms of particulate matter.

### Change to Part 7017.2060, subpart 4, item D

132. The MPCA finds that with the deletion of the proposed definition for “condensable particulate matter,” as described above in Finding No. 17, part 7017.2060, subpart 4, item D must be modified to add “organic and inorganic” to the term “condensable particulate matter.” This modification relates to the same subject matter as the originally proposed rule but further clarifies the exact fractions of particulate matter considered for compliance demonstration purposes (see SONAR page 43). It is reasonable to provide consistent use of terms throughout the rule. Additionally, it has been the MPCA’s practice to amend rules to eliminate these mandatory conditions wherever possible, and redirect the focus of a rule to the subject being regulated; therefore, the rule is modified to remove the condition requiring the commissioner to approve the exclusion.

#### *Part 7017.2060, subp.4D*

*Subp. 4. **PM-10 determination.** The owner or operator must conduct PM-10 emission tests as required in this subpart.*

*D. When submitting a proposed test plan, an owner or operator may apply to the commissioner to exclude organic and inorganic condensable particulate matter from a performance test for PM-10. The ~~commissioner shall approve the exclusion if the owner or operator demonstrates~~ must demonstrate:*

- (1) *through previous performance test results that the emissions unit is not a source of organic or inorganic condensable particulate matter emissions; or*  
(2) *that an exception in Method 202, section 1.4(h), as amended, applies.*

133. The MPCA finds that these modifications do not make the rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapters 7011 and 7017 as announced in the Notice, and are a logical outgrowth of the Notice and comments process. The effects of the modification do not differ from the proposed rule; the Notice provided fair warning that the rule would result in further definition related to the forms of particulate matter.

#### **Change to Part 7017.2060, subpart 4a, item D**

134. The MPCA finds that with the deletion of the proposed definition for "condensable particulate matter," as described above in Finding No. 17, part 7017.2060, subpart 4a, item D must be modified to add "inorganic" and "organic or inorganic" to the term "condensable particulate matter." This modification relates to the same subject matter as the originally proposed rule but further clarifies the exact fractions of particulate matter considered for compliance demonstration purposes (see SONAR page 43). It is reasonable to provide consistent use of terms throughout the rule. Additionally, it has been the MPCA's practice to amend rules to eliminate these mandatory conditions wherever possible, and redirect the focus of a rule to the subject being regulated; therefore, the rule is modified to remove the condition requiring the commissioner to approve the exclusion.

#### *Part 7017.2060, subp.4a.D*

*Subp. 4a. PM-2.5 determination. The owner operator must conduct PM-2.5 emission tests as required in this subpart.*

*D. When submitting a proposed test plan, an owner or operator may apply to the commissioner to exclude organic and inorganic condensable particulate matter from a performance test for PM-2.5. The ~~commissioner shall approve the exclusion if the owner or operator demonstrates~~ must demonstrate:*

- (1) *through previous performance test results that the emissions unit is not a source of organic or inorganic condensable particulate matter emissions; or*  
(2) *that an exception in Method 202, section 1.4(h), as amended, applies.*

135. The MPCA finds that these modifications do not make the rule substantially different. The modifications are clearly within the scope of the "Subject of Rules" Chapters 7011 and 7017 as announced in the Notice, and are a logical outgrowth of the Notice and comments process. The effects of the modification do not differ from the proposed rule; the Notice provided fair warning that the rule would result in further definition related to the forms of particulate matter.

#### **MODIFICATIONS TO THE RULE BASED ON SUGGESTIONS IN THE ALJ's REPORT.**

136. The MPCA adopts ALJ Oxley's Report dated August 25, 2016, and incorporates the Report into this Order Adopting Rules, with all modifications to the proposed rule amendments presented in these Findings.
137. The ALJ determined that there are no negative findings regarding the rules. However, the ALJ offered several suggestions to enhance clarity and readability of a proposed rule amendment. The Report also makes identified three categories of concerns: 1) use of "shall" or "must" and "agency" or "commissioner"; 2) potentially overbroad governmental discretion in existing rules; and 3) clarity and readability. The MPCA made

modifications to the rule based on the ALJ's suggestions and addressed the three categories of concerns. The categories of concerns are discussed first, followed by the rule modifications.

#### **ALJ Report, Use of "Shall" or "Must" and "Agency" or "Commissioner"**

138. The ALJ commented in the Report that there are a number of instances in which "shall" has not been changed to "must" but could be to conform to the Minnesota Rules Drafting Manual published by the Office of the Revisor. However, the Report states "Failure to make a change does not constitute a defect in the rule, but because the Agency's goal is to achieve consistency, instances where this change could be made without substantially modifying the proposed rule amendment are noted for the Agency's consideration."
139. The MPCA proposed numerous rule amendments to implement the Revisor's guidance on the use of "shall" and "must" though acknowledges that it was inconsistent in replacing "shall" with "must" throughout the proposed rule amendments, and in rule parts not proposed for amendment. However, the MPCA is not, at this time, replacing "shall" with "must" throughout the rules being amended in this rulemaking nor in the rule parts not proposed for amendment. The MPCA finds that even if it were to replace "shall" with "must" in every instance in which the term "shall" is used, these rule amendments would not be consistent with other air quality rules that are not part of this rulemaking, or potentially throughout all of the MPCA's rules (chapters 4760 to 9220).
140. The MPCA will strive to be more consistent with the Revisor's Rules Drafting Manual in its use of "shall" and "must" in future rulemakings.
141. The ALJ also commented in the Report that the MPCA replaces "agency" with "commissioner" in certain rule parts. In new provisions, the MPCA consistently uses "commissioner" rather than "agency" with reference to a decision, action or determination discussed in the rule. However, the Report notes several instances in the proposed amended rules where the substitution of "commissioner" for "agency" was not made in an existing rule part.
142. The MPCA acknowledges that it was inconsistent in replacing "agency" with "commissioner" throughout the proposed rule amendments, and in parts not proposed for amendment. However, the MPCA is not, at this time, replacing "agency" with "commissioner" throughout the rules being amended in this rulemaking nor in the rule parts not proposed for amendment. The MPCA finds that even if it were to replace "agency" with "commissioner" these rule amendments would not be consistent with other air quality rules that are not part of this rulemaking, or potentially throughout all of the MPCA's rules (chapters 4760 to 9220).
143. *Minn. R. 7000.0100*, subpart 2 defines "Agency" or "agency members" to mean the "MPCA in general and is used to refer to actions or functions of the MPCA that are not necessarily those of the commissioner or board members as individuals." Board means the commissioner and eight members appointed by the governor. *Minn. R. 7000.0100*, subpart 2a. On June 13, 2015, the Minnesota Legislature during special session voted to disband the MPCA Citizens Board (Board) effective July 1, 2015.
144. Because reference to "agency" is far reaching throughout all of the MPCA's rules, replacing "agency" with "commissioner" throughout the MPCA's rules requires a larger undertaking that could be addressed more efficiently by the Office of the Revisor. The MPCA worked with the Office of the Revisor to prepare proposed legislation which would repeal obsolete rule provisions related to the MPCA Citizen's Board. This item was identified in the MPCA's 2015 Obsolete Rules Report to the Legislature, available at: <https://www.pca.state.mn.us/sites/default/files/lrp-gen-1sy15.pdf>

## ALJ Report, Potentially Overbroad Governmental Discretion in Existing Rules

145. The ALJ commented in the Report that there are instances in which the existing rule grants the Agency or Commissioner discretionary authority and suggests the MPCA might wish to consider whether the discretion granted is impermissibly broad. The Report identified the use of the word “may” in the following parts: 7007.0700, item D; 7007.1100, subpart 1; 7007.1142, subpart 1, item C; 7007.1400, subparts 1 and 2; 7011.1280, subpart 7, item B; and 7017.2025, subpart 4, item B. The Report is clear that the MPCA has no obligation to demonstrate the need for and reasonableness of the degree of discretion that may exist in current rule provisions, and does not find any instances in which the amended rule language introduces impermissibly broad discretion.
146. The MPCA finds that it opened for amendment the rule parts referenced above in Finding No. 145 for reasons other than to reconsider use of the word “may” in the rule. Therefore, the MPCA proposes no change at this time in the use of the term “may” in the above referenced rule parts.

## ALJ Report, Clarity and Readability

147. The Report provides recommendations to clarify or improve the readability of a rule part. The MPCA has made many of the changes recommended by the ALJ, as described below in Findings No. 148 through 186. For those rule parts where the MPCA did not make a recommended change, an explanation is also provided.

### 7007.0500 CONTENT OF PERMIT APPLICATION.

#### Change to Part 7007.0500, subpart 3

148. Part 7007.0500, subpart 3 contains a list of a number of rule parts with certification requirements. The MPCA modified the proposed amendment to this part, as described above in Findings No. 36 through 40, to add the specific rule parts that allow for notices to which this part applies.
149. **ALJ Report, Minnesota Rules, part 7007.0500.** The ALJ stated it is more convenient for persons unfamiliar with these parts if they are listed in numerical order, i.e. subparts 7007.0800 and 7007.1100 would begin the list and come before 7007.1150 instead of appearing at the end of the list.
150. The MPCA accepts the ALJ’s suggestion and has modified the list in subpart 3 so that the rule parts are listed in numerical order. This change is reasonable because it will provide convenience and ease of reading.

#### *Part 7007.0500, subp. 3*

*Subp. 3. **Application certification.** A responsible official, as defined in part 7007.0100, subpart 21, ~~shall must~~ sign and certify any application, ~~notice~~, report, or compliance certification submitted pursuant to parts 7007.0100 to 7007.1850 or notice submitted pursuant to part 7007.0800, subpart 10, item B; 7007.1110, subpart 10, 11, or 15a; 7007.1150, item C; 7007.1250, subpart 4; or 7007.1350, subpart 2, with regard to truth, accuracy, and completeness. This certification and any other certification required by parts 7007.0100 to 7007.1850 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. This subpart shall be complied with by both the owner and the operator of the stationary source if they are not the same.*

151. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested. The modification is clearly within the scope of the "Subject of Rules" Chapter 7007, as announced in the Notice and is the MPCA's response to the comment submitted regarding the content of a permit application. The modification is a logical outgrowth of the Notice and comments submitted in response to the Notice, the Notice provided fair warning that this rule change could result.

#### 7007.0650 APPLICATION SUBMITTAL.

##### Change to Part 7007.0650, subpart 1

152. Part 7007.0650, subpart 1 establishes who receives the permit application and where the application must be submitted. The MPCA's proposed amendment to subpart 1 specifies that the applicant submit the complete application to the Commissioner at the MPCA's current address at 520 Lafayette Road North, St. Paul, Minnesota.
153. **ALJ Report, Minnesota Rules, part 7007.0650.** The ALJ stated that if the proposed amendment is made, the address can only be changed in the future by a rulemaking which is not something that can be easily done as needed. Further, the ALJ notes that the SONAR states "The outdated address for application submittal is deleted and replaced with "address specified by the Commissioner.""
154. The MPCA accepts the ALJ's suggestion to require applicants to submit the copies as directed by the MPCA.
155. Subpart 1 is modified to require that the application be submitted to the "address specified by the commissioner." It is reasonable to provide that the Commissioner specifies the address the permit application should be sent to, as the address can then be easily updated as needed.

##### *Part 7007.0650, subp. 1*

*Subpart 1. **Who receives application.** Permit applicants shall submit two printed copies of the complete application and all supplemental information requested by the commissioner to the ~~Minnesota Pollution Control Agency at 520 Lafayette Road North, Saint Paul, Minnesota 55155~~ address specified by the commissioner. Upon request of the commissioner, the applicant shall submit additional copies of the application directly to the administrator, affected states, and other governmental entities with the legal right to review the application, or submit additional copies to the agency to be forwarded to these parties.*

156. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested and one that the MPCA intended as identified in the SONAR. The modification is clearly within the scope of the "Subject of Rules" Chapter 7007, as announced in the Notice, and the modification is a logical outgrowth of the Notice and comments submitted in response to the Notice.
157. The ALJ Report at part 7007.0650 also notes that the same issue arises with the amendment to part 7030.0010 replacing an old address for the MPCA with its current address of 520 Lafayette Road North in St. Paul. The MPCA is not changing part 7030.0010 as suggested. The States' noise rules at part 7030.0010 incorporates by reference, American National Standards Institute, Specification for Sound Level Meters, S1.4-1983. The MPCA interprets the Revisor's Rules Drafting Manual (page 68) to mean when a publication is incorporated by reference in rule, the location where the publication is available must be identified in the rule.  
[https://www.revisor.mn.gov/office/1997\\_RuleDraftManual.pdf](https://www.revisor.mn.gov/office/1997_RuleDraftManual.pdf)

## Change to Part 7007.0650, subpart 2

158. Part 7007.0650, subpart 2 provides for electronic application submittal in a format specified by the Commissioner. Items A and B establish the signature requirements for certification when a paper certification is submitted and when an approved electronic signature is used.
159. **ALJ Report, Minnesota Rules, part 7007.0650.** Subpart 2 allows applicants to submit applications in an electronic format specified by the Commissioner. The ALJ stated that because subpart 1 refers to the “complete application” and to “all supplemental information” it is unclear whether the supplemental information may also be submitted electronically.
160. The ALJ also stated that in subpart 2, item A, submitting “fewer printed copies” could be interpreted as “at least one printed copy must be submitted.” If the Agency intends that every application submitted in electronic form must be accompanied by a printed copy, it could say so more clearly.
161. Subpart 2 is hereby modified to clarify that supplemental information, as well as the application, may be submitted in an electronic format. The MPCA is moving to accepting electronic applications where all application information is entered by the applicant through an online service, and there will no longer be a paper application submitted. This online service is being developed at this time. Because an application may include supplemental information and the application may be submitted electronically, it is reasonable that any supplemental information be submitted electronically as well.
162. The reference in the existing rule to “fewer printed copies than required in subpart 1” has not, to date, resulted in confusion or been problematic for applicants or MPCA staff. However, the MPCA accepts the ALJ’s suggestion that subpart 2, item A could be more clear and has modified the rule to delete the phrase “fewer printed copies” and add the requirement to submit a printed copy if requested by the Commissioner. This change is reasonable because it clarifies for the applicant that not every application submitted electronically requires a paper copy.

### *Part 7007.0650, subp.2*

*Subp. 2. **Electronic application submittal.** Applicants may submit applications and supplemental information in an electronic format specified by the commissioner. If the information is submitted in an electronic format:*

*A. the applicant must submit a printed copy of the complete application and supplemental information if requested by the commissioner ~~may allow the applicant to submit fewer printed copies than required in subpart 1; and~~*

*B. ~~the application must include the application certification required by part 7007.0500, subpart 3; must either:~~*

*(1) ~~be~~ on paper with an original signature; or*

*(2) ~~with~~ have an electronic signature, if such method of signature has been approved by the commissioner.*

163. The MPCA finds that the modifications do not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested and the MPCA intended when it proposed the rule amendment. The modification is clearly within the scope of the “Subject of Rules” Chapter 7007, as announced in the Notice, and the modification is a logical outgrowth of the Notice and comments submitted in response to the Notice.



## 7007.1142 CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS.

### Change to Part 7007.1142, subpart 1, item A

164. Part 7007.1142, subpart 1 establishes the conditions for eligibility for a capped permit. Subpart 1 makes clear that the rule is a recitation of preconditions to permit issuance and not a mandate to issue permits.
165. **ALJ Report, Minnesota Rules, part 7007.1142.** The ALJ suggests alternative language to better inform readers that these conditions are necessary but not sufficient for the Commissioner to issue a permit.
166. The MPCA accepts the ALJs suggested clarifying language and has modified subpart 1, item A to better realize the result sought in the SONAR (page 22). That is, the MPCA has intended and interpreted the rule to specify applicant eligibility for capped permits. It is reasonable to clarify that certain conditions must be met in order to be eligible for a capped permit.

#### *Part 7007.1142, subp. 1A*

##### ***Subpart 1. Capped permit issuance, denial, and revocation.***

A. ~~The following conditions must be satisfied~~ To be eligible to receive a capped permit and for the commissioner to issue a capped permit to the owners and operators of a stationary source must meet the following conditions:

- (1) the owners and operators have submitted a complete application for a capped permit;
- (2) the commissioner determines that the stationary source qualifies for the capped permit option under parts 7007.1140 to 7007.1148 for which the application was submitted; and
- (3) the commissioner has reason to believe that the stationary source will comply with the capped permit.

167. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested and one that the MPCA intended as identified in the SONAR. The modification is clearly within the scope of the "Subject of Rules" Chapter 7007, as announced in the Notice, and the modification is a logical outgrowth of the Notice and comments submitted in response to the Notice.

## 7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.

### Change to Part 7007.1150, item C, subitem (3)

168. Part 7007.1150, item C identifies the changes that qualify under subitem (3) for replacing existing control equipment with listed control equipment. The MPCA amended item C to help reduce confusion and ensure permittees are correctly applying the rule. As identified in the SONAR (page 23), in order to qualify for the notification procedure in *Minn. R. 7007.1150*, item C, the replacement control must be "listed control equipment" as defined in *Minn. R. 7011.0060*, subpart 4 and the control equipment must have the efficiency listed in Table 1 at *Minn. R. 7007.0070*, subpart 1a.
169. **ALJ Report, Minnesota Rules, part 7007.1150.** The ALJ states that the phrase in subitem (3) "has an equivalent or better control efficiency of regulated pollutants previously controlled with the control equipment being replaced" lacks clarity. It is unclear if a comparison is being required between the quantities of regulated

pollutants that were produced by the equipment being replaced when it was replaced or when it was operating normally.

170. The intent of this rule is to allow a permittee to make a certain type of change at the stationary source using a notification process rather than an amendment process. This rule is not about the quantities of pollutants being emitted or produced. The comparison being required is between the efficiency of the control equipment being replaced and the efficiency of the replacement control equipment. The MPCA has modified item C, subitem (3) to make this clarification. Item C, subitem 3 specifically and only allows a permittee to replace existing air pollution control equipment that is permitted at their source with listed control equipment that is defined in part 7011.0060, subpart 4, provided certain criteria are met.

*Part 7007.1150, item C(3)*

*C. A written notice to the agency shall be sent by any person who, at a permitted stationary source, makes a change that: (i) does not increase emissions of any regulated air pollutant; (ii) does not constitute a title I modification; and (iii) does not constitute any other type of modification, if the change is one of the following:*

- (1) installing air pollution control equipment;*
- (2) replacing a unit identified in the permit; or*
- (3) replacing existing air pollution control equipment with listed control equipment, as defined in part 7011.0060, subpart 4, ~~that meets the control equipment efficiencies for listed control equipment in part 7011.0070 and has an equivalent or better control efficiency of regulated pollutants previously controlled with the control equipment being replaced.~~ provided that the replacement air pollution control equipment:*
  - (a) attains at least the control equipment efficiency in part 7011.0070 for each applicable pollutant; and*
  - (b) has a listed control efficiency in part 7011.0070 that is equivalent to or better than the control efficiency of the control equipment being replaced for each applicable pollutant.*

171. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested and the MPCA intended when it proposed the rule amendment. The modification is clearly within the scope of the "Subject of Rules" Chapter 7007, as announced in the Notice, and the modification is a logical outgrowth of the Notice and comments submitted in response to the Notice.

**7008.0100 DEFINITIONS.**

**Change to Part 7008.0100, subpart 5**

172. Part 7008.0100, subpart 5 defines the term "transfer efficiency" which a regulated party may apply in the calculation of particulate matter, PM-10, and PM-2.5 emissions to verify that a stationary source qualifies for the conditionally insignificant material usage activity at part 7008.4100.
173. **ALJ Report, Minnesota Rules, part 7008.0100.** The ALJ questions whether the definition of "transfer efficiency" contemplates any other type of application other than "coating" because the definition of "material usage" at subpart 2a refers to the use of ink, adhesive and solvent which do not necessarily "coat" an object when applied. If so, without further clarification, subpart 5 is confusing.

174. The MPCA agrees with the ALJ that the definition of “transfer efficiency” could be confusing and has modified subpart 5 to make it more clear. It is reasonable to delete the term “coating” in the definition because specifically identifying “coating” as a type of application may be unnecessarily limiting.

*Part 7008.0100, subp. 5*

*Subp. 5. **Transfer efficiency.** “Transfer efficiency” means the ratio of the weight of ~~coating~~ solids in the material that adheres ~~adhering to an object being coated~~ to the total weight of ~~coating~~ solids in the material used in the application process. Transfer efficiency varies with the type of application method and is obtained from the application equipment manufacturer. If the manufacturer provides a range for the transfer efficiency, the transfer efficiency for calculating particulate matter, PM-10, and PM-2.5 emissions is the minimum specified in the range.*

175. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested. The modification is clearly within the scope of the “Subject of Rules” Chapter 7008, as announced in the Notice, and the modification is a logical outgrowth of the Notice and comments submitted in response to the Notice.

**7011.1265 REQUIRED PERFORMANCE TESTS, METHODS, AND PROCEDURES.**

**Change to Part 7011.1265, subpart 2, item A, subitem (2)**

176. Subpart 2 identifies the performance test methods for criteria pollutants.
177. **ALJ Report, Minnesota Rules, part 7011.1265.** The ALJ provides suggested rule language for improving readability in subpart 2, item A, subitem (2). The MPCA agrees and has modified subpart 2, item A, subitem (2) as suggested by the ALJ. It is reasonable to modify rule language to improve readability.

*Part 7011.1265, subp. 2A(2)*

*(2) The sum of filterable and organic condensable particulate matter is the concentration of particulate matter as described in part 7017.2060, subpart 3, item B.*  
*For each sample run employing Method 5 as provided in Appendix A-3 of Code of Federal Regulations, title 40, part 60, Appendix A-3, Method 5, as amended, run, the emission rate ~~shall~~ must be determined using:*  
*(a) oxygen or carbon dioxide measurements;*  
*(b) dry basis F factor; and*  
*(c) dry basis emission rate calculation procedures in Code of Federal Regulations, title 40, part 60, Appendix A-7, Method 19, as amended.*

178. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested. The modification is clearly within the scope of the “Subject of Rules” Chapter 7011, as announced in the Notice.

**7011.1280 OPERATOR CERTIFICATION.**

**Change to Part 7011.1280, subpart 7, item A**

179. Subpart 7 establishes the requirements for renewing waste combustor operator certifications.

180. **ALJ Report, Minnesota Rules, part 7011.1280.** The ALJ provides suggested rule language to clarify the requirement for certificate expiration in subpart 7, item A. The MPCA agrees and has modified the last sentence in subpart 7, item A as suggested by the ALJ. The change is reasonable because it clarifies what is required for an individual to renew an expired certificate.

*Part 7011.1280, subp. 7A*

**Subp. 7. Renewal.**

*A. A certified individual shall apply for certificate renewal no later than 30 days prior to certificate expiration. The application for renewal must include evidence that the person has, during the preceding three years, earned credit for attending training courses in the direct operation and maintenance of and environmental compliance for a waste combustor, including personnel training described in part 7011.1275, for the number of hours as identified as follows:*

- (1) Class I, II, III, A, or C, ~~or D~~, 24 hours; and*
- (2) Class IV, eight hours.*

*An individual whose certificate has expired must comply with item B or C to renew the certificate.*

181. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested. The modification is clearly within the scope of the "Subject of Rules" Chapter 7011, as announced in the Notice.

**Change to Part 7011.1280, subpart 7, item B**

182. **ALJ Report, Minnesota Rules, part 7011.1280.** The ALJ stated that subpart 7, item B could be written more clearly while eliminating undue discretion in the renewal decision and provided suggested rule language. The MPCA agrees and has modified subpart 7, item B as suggested by the ALJ. The change is reasonable because it clarifies the training requirements needed for an individual applying for certificate renewal.

*Part 7011.1280, subp. 7B*

*B. If an individual applies for certificate renewal within one year following the expiration of the certificate, ~~the commissioner may renew the certificate without examination. To be recertified without an examination, the individual must meet the training requirements of item A or subpart 3 at the time of application for renewal before the certificate will be renewed without an examination. If the individual does not have training to meet the requirements of item A, the individual must comply with subpart 3.~~*

183. The MPCA finds that this modification does not make the proposed rule substantially different because the modification is a clarification that the ALJ suggested and one that the MPCA intended as identified in the SONAR (page 49). The modification is clearly within the scope of the "Subject of Rules" Chapter 7011, as announced in the Notice, and the modification is a logical outgrowth of the Notice and comments submitted in response to the Notice.

**7017.1170 QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR CEMS.**

**Change to Part 7017.1170, subpart 4a, item A**

184. Subpart 4a establishes the requirements for cylinder gas audits for continuous emission monitoring systems.

185. **ALJ Report, Minnesota Rules, part 7017.1170.** The ALJ stated though it can be fairly inferred from subpart 2 (should be subpart 4a) that notifications of exceptions must be sent to the Agency, any doubt can be removed by revising subpart 2 (subpart 4a). The ALJ provides suggested rule language.
186. The MPCA is not changing part 7017.1170, subpart 4a, item A as suggested because we believe we have the correct rule language.

#### ORDER

**IT IS ORDERED** that the above captioned rules, in the form published in the *State Register* on February 29, 2016, with the modifications as indicated in the Revisor of Statutes draft, file number RD 4097, dated September 28, 2016, are hereby adopted.

10/25/16  
Date

John Linc Stine  
John Linc Stine, Commissioner  
Minnesota Pollution Control Agency

## Appendix 2: Public Notice

The public notice for the SIP revision was published in the Minnesota *State Register* and on the MPCA website on October 10, 2016, with the public comment period commencing on October 11, 2016 and ending on November 9, 2016. During the public comment period, a copy of the SIP revision was made available at the MPCA office located in St. Paul and on the MPCA's website (<https://www.pca.state.mn.us/public-notice>). A copy of the public notice is attached. Two comments were received, addressed in Appendix 3.

**Minnesota Pollution Control Agency  
Environmental Analysis and Outcomes Division  
Public Notice of Proposed State Implementation Plan Revision**

**NOTICE IS HEREBY GIVEN** that the Commissioner of the Minnesota Pollution Control Agency (MPCA) has determined that a State Implementation Plan (SIP) revision must be submitted to meet Minnesota's requirements under sections 110(a)(2)(A) of the Clean Air Act (the Act). The draft SIP revision is now available for public comment.

**Background.** Section 110(a)(2)(A) of the Act requires that SIPs contain enforceable emission limitations as may be necessary or appropriate to meet applicable requirements of the Act. In accordance with Section 302(k) of the Act, these emissions limitations must be continuous. On May 22, 2015, the U.S. Environmental Protection Agency (EPA) issued a finding that the SIPs of 36 states, including Minnesota, contained provisions pertaining to emissions during periods of startup, shutdown, or malfunction (SSM) that conflicted with the Act. The finding was published in the *Federal Register* (FR) on June 12, 2015 (80 FR 33839). Minnesota's SIP currently contains a provision, Minnesota Rule (Minn. R.) 7011.1415, that allows an automatic exemption from petroleum refinery performance standards for flares burning process upset gas (any gas generated by a petroleum refinery process unit as a result of start-up, shutdown, upset, or malfunction) when the flares are caused by SSM. EPA identified this exemption as being in conflict with the Act, because it explicitly allows for excess emissions that violate the continuous emissions limitations contained in the SIP. EPA's finding requires that Minnesota remedy this SIP inadequacy and remove the exemption contained in Minn. R. 7011.1415 no later than November 22, 2016.

**Purpose of the SIP revision.** The purpose of this SIP revision is to fulfill Minnesota's responsibility under the Act to demonstrate its compliance with Section 110(a)(2)(A) of the Act and address EPA's finding of SIP inadequacy for Minnesota.

Minnesota is repealing Minn. R. 7011.1415, eliminating the exemption from petroleum refinery performance standards for flares burning process upset gas the flares are caused by SSM.

When finalized, this rule repeal will ensure that Minnesota's SIP fully complies with section 110(a)(2)(A) of the Act by providing for continuous, enforceable emissions limitations as needed to comply with the NAAQS and meet all other applicable requirements of the Act. The rule repeal is expected to be effective by the end of 2016.

The MPCA will therefore request that EPA remove Minn. R. 7011.1415 from Minnesota's SIP.

The MPCA will consider changing the contents of the proposed SIP revision based on comments received during the comment period. Following the end of the comment period, the Commissioner will decide whether to submit the proposed SIP revision to the EPA.

**MPCA contact person.** The MPCA contact person is Melissa Andersen Kuskie. Written comments, requests, and petitions should be mailed to: Melissa Andersen Kuskie, Minnesota Pollution Control Agency, Environmental Analysis and Outcomes Division, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone: 651-757-2512 or toll free 1-800-657-3864; fax: 651-297-8324; and email: [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us). TTY users may call the MPCA at TTY 651-252-5332 or 1-800-657-3864.

**Availability of SIP.** A copy of the proposed SIP revision is available on the MPCA's web site at <https://www.pca.state.mn.us/public-notices>. A copy of the proposed SIP revision is also available upon request by contacting Melissa Andersen Kuskie at 651-757-2512 or [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us), or can be mailed to any interested person upon the MPCA's receipt of a written request. Additional materials relating to the SIP revision are available for inspection by appointment at the MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194, between the hours of 7:00 a.m. and 3:00 p.m., Monday through Friday. To examine these materials, or for more information, please contact Melissa Andersen Kuskie. All MPCA offices may be reached by calling 1-800-657-3864.

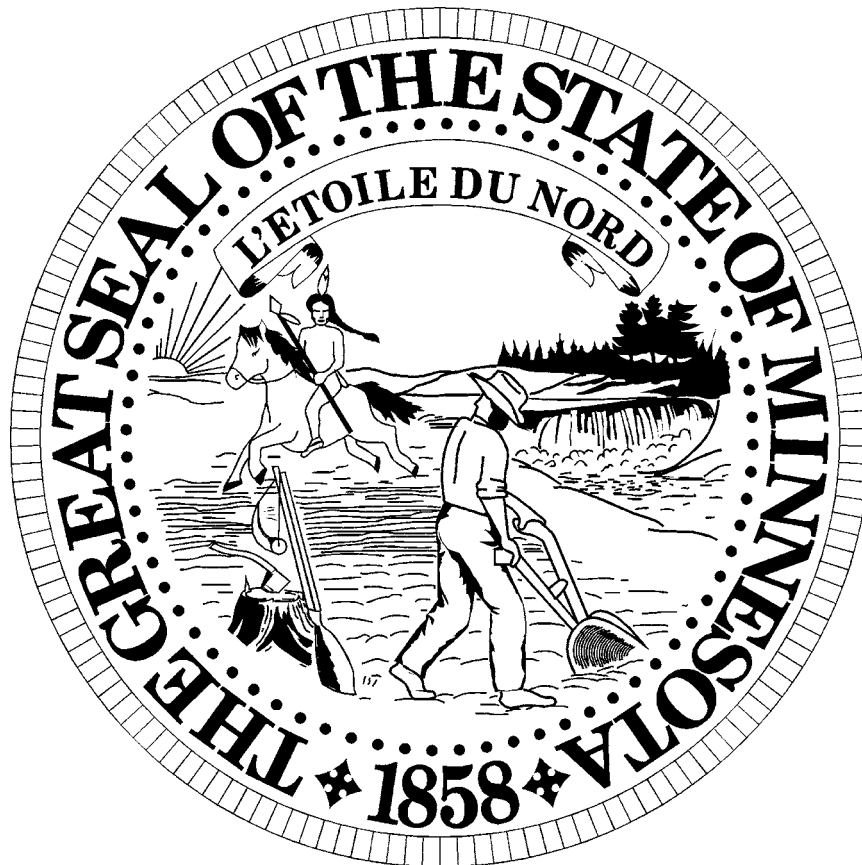
**Public comment period and potential public meeting.** The public comment period begins October 11, 2016 and ends on November 9, 2016. Your comments must be in writing and received by Melissa Andersen Kuskie by 4:00 p.m. on November 9, 2016. Written comments may be submitted to her at the address, facsimile number, or e-mail address listed above.

A public information meeting on this proposed SIP revision will only be held if one is requested by 4:00 p.m. on November 9, 2016. If such a meeting is requested, it will be held on November 10, 2016 from 1:00 p.m. to 3:00 p.m. at the MPCA St. Paul Office, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194. To find out if a public information meeting will be held, please contact Melissa Andersen Kuskie at 651-757-2512 or [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us) after 4:00 p.m. on November 9, 2016. The public information meeting, if one is requested, will provide information, receive public input, and answer questions about the proposed SIP revision.



# Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



**Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;  
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;  
Official Notices; State Grants & Loans; State Contracts;  
Non-State Public Bids, Contracts and Grants**

**Monday 10 October 2016  
Volume 41, Number 15  
Pages 441 - 458**

# Minnesota State Register

## Judicial Notice Shall Be Taken of Material Published in the *Minnesota State Register*

The *Minnesota State Register* is the official publication of the State of Minnesota's Executive Branch of government, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes*, Chapter 14, and *Minnesota Rules*, Chapter 1400. It contains:

- |                          |   |                                 |  |
|--------------------------|---|---------------------------------|--|
| • <b>Proposed Rules</b>  | • <b>Executive Orders of the Governor</b> | • <b>Commissioners' Orders</b>  | • <b>Contracts for Professional, Technical and Consulting Services</b> |
| • <b>Adopted Rules</b>   | • <b>Appointments</b>                     | • <b>Revenue Notices</b>        | • <b>Non-State Public Bids, Contracts and Grants</b>                   |
| • <b>Exempt Rules</b>    | • <b>Proclamations</b>                    | • <b>Official Notices</b>       |  |
| • <b>Expedited Rules</b> | • <b>Vetoed Rules</b>                     | • <b>State Grants and Loans</b> |  |
| • <b>Withdrawn Rules</b> |   |                                 |  |

### Printing Schedule and Submission Deadlines

Vol. 41 Issue Number	PUBLISH DATE ( <b>BOLDFACE</b> shows altered publish date)	Deadline for: all Short Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical- Consulting Contracts, Non-State Bids and Public Contracts	Deadline for LONG, Complicated Rules (contact the editor to negotiate a deadline)
# 16	Monday 17 October	Noon Tuesday 11 October	Noon Thursday 6 October
# 17	Monday 24 October	Noon Tuesday 18 October	Noon Thursday 13 October
# 18	Monday 31 October	Noon Tuesday 25 October	Noon Thursday 20 October
# 19	Monday 7 November	Noon Tuesday 1 November	Noon Thursday 27 October

**PUBLISHING NOTICES:** We need to receive your submission **ELECTRONICALLY in Microsoft WORD format**. Submit ONE COPY of your notice via e-mail to: sean.plemmons@state.mn.us. State agency submissions must include a "State Register Printing Order" form, and, with contracts, a "Contract Certification" form. Non-State Agencies should submit **ELECTRONICALLY in Microsoft WORD**, with a letter on your letterhead stationery requesting publication and date to be published. Costs are \$10.20 per tenth of a page (columns are seven inches wide). One typewritten, double-spaced page = 4/10s of a page in the State Register, or \$40.80. About 2-1/2 pages typed, double-spaced, on 8-1/2"x11" paper = one typeset page in the *State Register*. Contact editor with questions (651) 297-7963, or **e-mail**: sean.plemmons@state.mn.us.

**SUBSCRIPTION SERVICES:** Copies are available at Minnesota's Bookstore, 660 Olive Street, St. Paul, MN 55155. Order by phone: Metro area: (651) 297-3000 Toll free (800) 657-3757. TTY relay service phone number: 711. **NO REFUNDS**. E-mail subscriptions are available by contacting (651) 297-8777. Send address changes to Minnesota's Bookstore, 660 Olive Street, St. Paul, Minnesota 55155.

**SEE THE** Minnesota State Register free at website: <http://www.minnesotasbookstore.com>

- **Minnesota State Register: On-line subscription** – \$180, includes links, index, special section "CONTRACTS & GRANTS," with Sidebar Table of Contents, Early View after 4:30 pm Friday (instead of waiting for early Monday), and it's sent to you via **E-mail**.
- **Single issues** are available for a limited time: Minnesota State Register \$5.00.
- **"Affidavit of Publication"** includes a notarized "Affidavit" and a copy of the issue: \$15.00.
- **Research Services** - will look up, photocopy, and fax or send copies from past issues at \$1.00 per page.

<b>Governor:</b> Mark Dayton (651) 296-3391 <b>Administration Commissioner:</b> Matthew J. Massman (651) 201-2555	<b>Lieutenant Governor:</b> Tina Smith (651) 296-339 <b>Plant Management Division:</b> Christopher A. Guevin (651) 201-2350 <b>Attorney General:</b> Lori Swanson (651) 296-6196	<b>Minnesota's Bookstore:</b> Mary Mikes (651) 297-3979 <b>Auditor:</b> Rebecca Otto (651) 296-2551 <b>Secretary of State:</b> Steve Simon (651) 296-2803	<b>Subscriptions Manager:</b> Loretta J. Diaz (651) 297-8777 loretta.diaz@state.mn.us <b>Editor:</b> Sean Plemmons (651) 297-7963 sean.plemmons@state.mn.us
--	--	---	--

Copyright © 2016 Plant Management Division, Department of Administration, State of Minnesota.

USPS Publication Number: 326-630 (ISSN: 0146-7751)

**THE MINNESOTA STATE REGISTER IS PUBLISHED** by Plant Management Division, Department of Administration, State of Minnesota, pursuant to Minnesota Statutes § 14.46 and is available on-line at: <http://www.comm.media.state.mn.us/bookstore/mnbookstore>

### Minnesota Legislative Information

#### Senate Public Information Office

(651) 296-0504  
State Capitol, Room 231, St. Paul, MN 55155  
<http://www.senate.mn>

#### Minnesota State Court System

Court Information Office (651) 296-6043  
MN Judicial Center, Rm. 135,  
25 Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155  
<http://www.mncourts.gov>

#### House Public Information Services

(651) 296-2146  
State Office Building, Room 175  
100 Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155  
<https://www.house.leg.state.mn.us/hinfo/hinfo.asp>

#### Federal Register

Office of the Federal Register (202) 512-1530; or (888) 293-6498  
U.S. Government Printing Office – Fax: (202) 512-1262  
[http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html)

## Minnesota Rules: Amendments and Additions .....444

### Errata

#### Department of Natural Resources

Errata Notice Regarding the Notice of Intent to Adopt Expedited Rules Without a Public Hearing for the Proposed Expedited Permanent Rule: Northern Pike Regulation .....445

### Revenue Notices

#### Minnesota Department of Revenue

Revenue Notice # 16-06: Administration and Compliance – Subpoenas – Reimbursement of Third-Party Record Keepers' Reasonable Costs; Revoking Revenue Notice # 04-06 .....445  
Revenue Notice # 16-07: Sales and Use Tax – Exemptions – Qualified Data Centers; Revocation of Revenue Notice # 12-11 .....446

### Official Notices

#### Department of Human Services

Call for Applications for MNsure Advisory Committee Membership .....450

#### Minnesota Pollution Control Agency

Public Notice of Proposed State Implementation Plan Revision .....450

### State Contracts

#### Department of Administration

Farm Land for Lease .....452

#### Minnesota State Colleges and Universities (MnSCU)

##### Minneapolis Community and Technical College (MCTC)

Request for Proposal for Navigator for MnAmp Grant .....452

#### Iron Range Resources and Rehabilitation Board (IRRRB)

Request for Proposals to Provide Full-Service Marketing, Public Relations and Event Planning Services to Giants Ridge in Biwabik, Minnesota .....453

#### Minnesota Department of Transportation (Mn/DOT)

Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities ("Consultant Pre-Qualification Program") .....453  
Notice Concerning Professional/Technical Contract Opportunities and Taxpayers' Transportation Accountability Act Notices .....454

### Non-State Public Bids, Contracts & Grants

#### Metropolitan Airports Commission (MAC)

Notice of Call for Bids for 2016 Terminal 1-Lindbergh Building Remediation Program .....454  
Notice of Call for Bids for 2016 Commission Chambers Telecoil Installation & A/V Upgrades .....455  
Notice of Call for Bids for 2016 General Office Security Enhancements .....455  
Notice of Call for Bids for 2016 GSE Power Charger Stations – Phase 2 .....456  
Notice of Call for Bids for 2016 Runway Planing and Regrooving - Rebid .....457  
Notice of Call for Bids for 2016 Mother Lake Stormwater Improvements - Rebid .....457  
Notice of Call for Bids for 2016 Mezzanine HVAC/AHU Replacement & Penthouse (South) .....458

## Get the Earliest Delivery of the State Register

A subscription to the **STATE REGISTER** gets you the **EARLIEST DELIVERY**. Instead of waiting until Monday at 8:00 a.m. when the magazine is posted on our website, we'll **SEND** you the magazine on Friday at close of business with the State, 4:30 pm: 2-1/2 days early.

Yes, that's right -- 2-1/2 days ahead of normal publication schedule -- to get to know what's coming in the next week; to prepare your plans for your submissions to grant and loan programs and RFPs, RFIs and other contracts and bids.

Subscriptions for an entire year cost \$180. The magazine is **SENT TO YOU**, as well as **ONE OTHER PERSON YOU DESIGNATE**, in case of vacations, or illnesses, or other absences in your office . . . . and you won't have to access our website or click, click, click to find us.

Subscriptions include the most up-to-date information, including a growing index to issues in each volume, issue by issue, including the current volume, which others do not have access to until the end of the volume year.

And a subscription gets you our Current Listing of All OPEN bids, contracts, grants, loans, and RFPs that are still open for bid, so you don't have to hunt through each back issue to find something.

# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the State Register

The State Register is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the State Register. Published every Monday, the State Register makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific Minnesota Rule chapter numbers. Every odd-numbered year the Minnesota Rules are published. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the State Register.

An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (Minnesota Statutes §§ 14.101). It does this by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as Proposed Rules, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules, and withdrawn proposed rules, are also published in the State Register. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the State Register as Adopted Rules. These final adopted rules are not printed in their entirety, but only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the State Register, the issue the rule appeared in as proposed, and later as adopted.

The State Register features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive (issue #26 cumulative for issues #1-26); issues #27-38 inclusive (issue #39, cumulative for issues #1-39); issues #40-52 inclusive, with final index (#1-52, or 53 in some years). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the State Register, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155, phone: (612) 297-3000, or toll-free 1-800-657-3757. TTY relay service phone number: (800) 627-3529.

## Volume 41 - Minnesota Rules

(Rules Appearing in Vol. 40 Issues #27-52 are  
in Vol 40, #52 - Monday 27 June 2016)

### Volume 41, #15

**Tuesday 5 July - Monday 10 October**

#### Department of Agriculture

1505.0960; .1100; .3070; 1513.0140 (proposed) ..... 201

#### State Arts Board

1900.0610; .1110 (adopted) ..... 123

#### Board of Cosmetologist Examiners

2105; 2110 (adopted) ..... 305

#### Gambling Control Board

7861; 7863; 7864; 7865 (adopted) ..... 137

#### Department of Health

##### Division of Health Policy

4654.0800 (adopted exempt) ..... 281

##### Division of Infectious Disease Epidemiology, Prevention and Control

4605.7000; .7030; .7040; .7060; .7075; .7090; .7400; .7700;

.7900 (proposed) ..... 53

4605.7000; .7042 (proposed repealer) ..... 59

#### Department of Human Services

##### Office of Inspector General, Financial Fraud & Abuse Investigation

9505.2240 (proposed) ..... 271

#### Department of Labor and Industry

5210.0530 (adopted) ..... 337

1309.0311 (proposed) ..... 353

5219; 5221 (adopted exempt) ..... 385

#### Occupational Safety and Health Division

5205.0010 (adopted exempt) ..... 135, 391

## Board of Marriage and Family Therapy

5300 (adopted) ..... 87

5300.0100 s. 6; .0210; .0240 s. 5 (repealed) ..... 92

## Department of Natural Resources

6216 (adopted) ..... 113

6232.1990 (adopted expedited) ..... 161

6232.2460; .2550; .2560 (adopted expedited) ..... 161

6232.2800 (adopted expedited) ..... 358

6237.0400; .0550 (adopted expedited) ..... 164

6237.0550 s. 2 (repealer) ..... 165

6232.0300; .0800; .0900; .1300; .1600; .1750; .1970; .1980; .2100; .2500;

.4700 (adopted expedited) ..... 165

6232.2510 (adopted expedited) ..... 425

6232.4700 s. 75a, 91 (repealer) ..... 178

6230.0200; .0250; .0295; .0400; 6234.0600; .1700; .2600; 6236.0700

(adopted expedited) ..... 178

6230.0200; 0295; .0400; .0600 (repealer) ..... 181

6262 (proposed expedited) ..... 417

6264.0050 (proposed) ..... 203

## Nursing Board

6301.0100; .2300; .2310; .2320; .2330; .2340; .2350; .2360 ..... 239

## Board of Pharmacy

6800.2150; .2160 (proposed) ..... 355

## Pollution Control Agency

7081.0040 (adopted expedited) ..... 312

## Public Employment Relations Board

7325.0020; .0100; .0110; .0150; .0240; .0260; .0270; .0300; .0320; .0400;

.0410 (adopted) ..... 5

## Racing Commission

7869.0100; 7877.0100; .0110; .0120; .0125; .0160; 7880.0010; .0020;

.0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110 (proposed) .. 272

# Errata

Appearing in this section are: corrections to agency or *State Register* rule errors, or in following rulemaking processes, as well as incomplete notices, mislabeled rules, incorrect notices and citations. Whenever an error is corrected in this section, its corresponding rule number(s) will also appear in the *State Register's* index to rulemaking activity: **Minnesota Rules: Amendments and Additions.**

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

## Department of Natural Resources

### Errata Notice Regarding the Notice of Intent to Adopt Expedited Rules Without a Public Hearing for the Proposed Expedited Permanent Rule: Northern Pike Regulation

Regarding the Notice of Intent to Adopt Expedited Rules Without a Public Hearing for the Proposed Expedited Permanent Rule: Northern Pike Regulation published in the Proposed Rules section of the State Register at 41 SR 417 on 3 October 2016.

The notice of intent contained an incorrect web link to additional background information. The correct web link is <http://www.mndnr.gov/pike>.

# Revenue Notices

The Department of Revenue began issuing Revenue Notices in July of 1991. Revenue Notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue Revenue Notices is found in *Minnesota Statutes*, Section 270C.07.

**KEY:** Underlining indicates additions to existing language. ~~Strikeouts~~ indicate deletions from existing language.

## Minnesota Department of Revenue

### Revenue Notice # 16-06: Administration and Compliance – Subpoenas – Reimbursement of Third-Party Record Keepers' Reasonable Costs; Revoking Revenue Notice # 04-06

#### Introduction

*Minnesota Statutes*, section 270C.32, subdivision 9, provides that when the Commissioner of Revenue serves a subpoena for records upon an uninvolved third party "... the commissioner shall pay the reasonable costs of producing the records." The purpose of this revenue notice is to set forth which costs the Department of Revenue considers to be reasonable for purposes of reimbursing a third-party record keeper for the costs of furnishing subpoenaed records. This notice revokes and replaces Revenue Notice # 04-06 in order to reorganize it for better readability, provide greater specificity with regard to what costs may be reimbursed, revise the compensation rate for document production work, and address reimbursement of reasonable costs for records that are provided electronically.

#### Department Position

##### I. General

A. The commissioner will reimburse the reasonable cost of producing records, meaning the costs for search and retrieval, production, and delivery or transportation of the documents or other requested information, as defined in sections II, III, and IV below.

B. The "reasonable cost of producing records" does not include salaries, fees, or similar charges for analysis of responsive materials, nor does it include charges for time spent for managerial or legal oversight, advice, expertise, or research in connection with producing the records. The commissioner will not reimburse these costs.

C. To receive reimbursement, the third-party record keeper must satisfactorily comply with the subpoena and submit supporting documentation to the commissioner with an invoice separately identifying all of the reasonable costs associated with producing the subpoenaed records.

D. A third-party record keeper must obtain the commissioner's prior consent if the third-party record keeper expects that the total reasonable cost of producing the subpoenaed records will exceed \$250.00.

# Revenue Notices

---

## II. Search and Retrieval Costs

The reasonable cost for the time the third-party record keeper spends locating and retrieving documents or other requested information is \$12 per hour. If it is necessary for the third-party record keeper to hire outside help to locate or retrieve the requested information, the commissioner will reimburse the third party up to \$12 per hour, not to exceed the actual cost incurred.

## III. Production Costs

### A. Electronic Production

The reasonable cost for documents that are produced electronically, whether via portable media (such as a CD-ROM or flash drive) or by secure online delivery (e.g., temporary access to a secure network server) is the lesser of: (1) the actual cost of such electronic media or network access plus \$12 per hour of time spent preparing, converting, or scanning the documents, if itemized separately; or (2) 25 cents per page or page equivalent (based on the number of letter-sized pages that could be printed from each of the documents in the electronic file).

### B. Physical Production

The reasonable cost for documents that are reproduced as photocopies or duplicates on paper is 25 cents per page, regardless of the size of the page. The \$12 per hour rate specified above for locating and retrieving records does not include any time spent making or assembling physical copies because those costs are included in the photocopying rate of 25 cents per page.

The reasonable cost for producing photographs, film, and other items that cannot be effectively reproduced electronically or on ordinary copy paper is the actual cost of duplicating such items.

## IV. Transportation Costs

Costs associated with transporting necessary people to locate and retrieve subpoenaed records or information from a location separate from the third-party record keeper's place of business will be reimbursed based on the mileage rate set by the Internal Revenue Service for the time period in which the travel takes place. The third-party record keeper's "place of business," for mileage purposes, is the primary work location of the person sent to retrieve the records. The time in transit spent by necessary persons will be reimbursed at the \$12 per hour rate, but this time does not include rest breaks, meals, or any incidental stops or delays.

The reasonable cost for transporting the requested records, either to the requestor's address or to a specified location, is the actual cost of sending the records by standard first class mail. Other methods of transportation may be used if prior authorization is obtained from the commissioner.

## Minnesota Department of Revenue

### Revenue Notice # 16-07: Sales and Use Tax – Exemptions – Qualified Data Centers; Revocation of Revenue Notice # 12-11

#### Introduction

This Revenue Notice sets out the department's positions regarding the sales tax exemptions under *Minnesota Statutes*, section 297A.68, subdivision 42, for certain purchases for use in a "qualified data center," under the law as amended in 2013 and clarified in 2014. Terms and phrases with quotation marks are as used in section 297A.68, subdivision 42, unless indicated otherwise. This Revenue Notice replaces and revokes Revenue Notice # 12-11.

This notice states below that the exemptions apply to purchases made by a qualifying facility after June 30, 2013. However, if a qualified facility has met the investment and square footage criteria under the 2011 law, then the exemption applies to eligible purchases made after June 30, 2012. Aside from the different exemption date available for purchases, and the different investment criteria and square footage criteria, positions set out in this notice apply equally to facilities qualifying under 2011 law.

## **I. Enterprise Information Technology Equipment, Software, and Electricity Exemptions**

The sales tax exemptions apply to the following purchases made after June 30, 2013:

(1) Purchases of “enterprise information technology equipment and computer software,” including replacements and upgrades, for use in a “qualified data center, or a qualified refurbished data center” (each center hereafter will be referred to as either a “facility” or a “qualified facility”).

The purchaser of exempt equipment and software must first pay the sales tax, and then once the facility is certified by Minnesota Department of Employment and Economic Development (DEED) as a qualified facility (as described below), the “owner of the qualifying business” may apply for a refund of the sales tax paid on the purchases, within 3-1/2 years from the invoice date. If the tax was paid by a contractor, subcontractor, or builder, then that person must furnish to the owner of the qualifying business a statement which includes “the cost of the exempt items and the taxes paid on the items,” so that the owner may apply for the refund. See *Minnesota Statutes*, sections 297A.75, 289A.40, and 289A.50.

(2) Purchases of electricity used or consumed in the operation of the qualified facility, upon providing a fully completed exemption certificate, Form ST3, to the purchaser’s utility provider.

To qualify for the exemptions, the facility must be used to house “enterprise information technology equipment” (as defined in *Minnesota Statutes*, section 297A.68, subdivision 42); must have met the stated investment threshold and the required square footage; and must have “(i) uninterruptible power supplies, generator backup power, or both; (ii) sophisticated fire suppression and prevention systems; and (iii) enhanced security.”

The exemptions end either 20 years from the date of the first purchase of enterprise information technology equipment and computer software for use in a qualified facility, or by July 1, 2042, whichever is earlier.

## **II. DEED Certifies that Investment and Square Footage Requirements are Met**

DEED certifies to the Department of Revenue when a facility qualifies for the exemptions by meeting the investment thresholds and square footage requirements. DEED will look at the total costs of construction or refurbishment, enterprise information technology equipment, and supporting computer software, to determine if the investment threshold is met. Only purchases made after June 30, 2012, count toward the qualifying investment threshold and period, except that costs for computer software maintenance agreements purchased before July 1, 2013, are not includable.

The square footage criteria for a qualified facility is as follows:

(1) For either a facility that has been constructed or an existing facility that has been “substantially refurbished,” the facility must be located on a single parcel or on contiguous parcels, and be comprised of one or more buildings with a combined square footage of at least 25,000 square feet.

(2) For a “substantially refurbished” facility at least 25,000 square feet of the facility must have been rebuilt or modified. “Substantially refurbished” means an existing facility has been rebuilt or modified, including installation of enterprise information technology equipment, environmental control, computer software, energy efficiency improvements, or building improvements.

(3) The facility may include the square footage of the following spaces or facilities as long as they support the operation of the enterprise information technology equipment: office or meeting spaces, and mechanical and other support facilities.

The investment criteria for a qualified facility are as follows:

(1) For a constructed facility, a \$30,000,000 investment within a 48-month period.

(2) For a “substantially refurbished” facility, a \$50,000,000 investment within a 24-month period.

### **Department Position**

#### **I. Investment Cost and Period; Qualities and Square Footage**

A. In determining if the dollar threshold has been met within the investment period, only the following are included:

# Revenue Notices

---

construction and refurbishment costs incurred after June 30, 2012, purchases of enterprise information technology equipment and computer software made after June 30, 2012, and purchases of computer software maintenance agreements made after June 30, 2013.

B. The months of the investment period must be consecutive months.

C. The cost of land acquisition, if any, is not included in meeting the dollar threshold.

D. A qualified facility may include one or more businesses using enterprise information technology equipment. If more than one business using enterprise information technology equipment is located at the facility, either as co-owners or tenants of the building or buildings that constitute the facility, the following applies:

1. Their combined total cost of construction or refurbishment, investment in enterprise information technology equipment, and of computer software must meet the dollar threshold within the corresponding investment period: \$30,000,000 within a 48-month period for a constructed facility; and \$50,000,000 within a 24-month period for a “substantially refurbished” facility.

2. The investment period for all co-owners or tenants begins when the initial purchase and investment is made by any of the co-owners or tenants.

E. The square footage must be documented and the computation of the square footage must follow industry standards.

F. Mechanical and other support facilities are “in support of the operation of the enterprise information technology equipment” if their function is to control, direct, maintain, manage, monitor, regulate or service the enterprise information technology equipment, or to allow staff to carry out these functions. If so, their square footage may be included to determine if the facility meets the minimum square footage criteria.

G. Office or meeting spaces are “in support of the operation of the enterprise information technology equipment” if their function is to allow staff to control, direct, maintain, manage, monitor, regulate, or service the enterprise information technology equipment, or to provide training, discussions, performance evaluation and enhancement, and other similar activities to ensure the optimum operation of the enterprise information technology equipment. If so, their square footage may be included to determine if the facility meets the minimum square footage criteria.

## **II. Purchases of Items that Meet Investment Thresholds or are Used within Spaces that Support the Operation are not Automatically Exempt**

A. Costs of enterprise information technology equipment and software purchased after June 30, 2012, will count toward meeting the investment threshold (except that software maintenance agreements must be purchased after June 30, 2013), but to qualify for the exemption they must be purchased after June 30, 2013.

B. Costs of constructing or refurbishing a facility will count toward meeting the investment threshold, but the items used in the construction or refurbishment of a facility do not qualify for the exemption unless they are enterprise information technology equipment and software and are purchased after June 30, 2013.

C. Office or meeting spaces that support the operation of the enterprise information technology equipment will count toward meeting the square footage requirement, but the purchases of furniture and equipment used in the office or meeting spaces (e.g., tables, chairs, and photocopiers) do not qualify for the exemption.

## **III. Substantially Refurbished**

A. The terminology “refurbished” and “rebuilt or modified” both mean that the facility has been repaired, remodeled, or altered. This refurbishment may include, but is not limited to, upgrading, expanding, or retrofitting enterprise information technology equipment and its supporting infrastructure and systems, as well as significant interior or exterior structural modification.

B. Making cosmetic changes to the interior or exterior appearance of a building (e.g., painting office space walls) does not constitute a “substantially refurbished” facility or a “building improvement.” Space which has been changed cosmetically and has not otherwise been repaired, remodeled or altered will not be included in the minimum square footage for determining if the facility has been substantially refurbished.



## IV. Electricity Exemption

A. Electricity used or consumed in operation of the facility is exempt once the facility is certified by DEED as a qualified facility, and not before.

B. Once a facility is qualified, electricity that is used or consumed in the operation of a qualified facility, is exempt from sales tax to the extent it is used as follows:

1. To operate “(i) uninterruptible power supplies, generator backup power, or both; (ii) sophisticated fire suppression and prevention systems; and (iii) enhanced security”;

2. To operate enterprise information technology equipment; or

3. As used in office and meeting spaces, and mechanical and other support facilities, to support the operation of the enterprise information technology equipment in the facility.

C. Once a facility is certified by DEED as a qualified facility, any business that pays for the electricity used or consumed in the operation of the qualified facility may purchase it exempt from sales tax, and is not itself required to be a qualified facility.

D. While the use of separate meters that solely measure the electricity for qualifying uses and spaces is preferable, the department will accept a valid energy audit conducted by a qualified energy audit engineer or consultant, or other reasonable methods, to determine the portion of the total electricity that is used for qualifying uses and spaces at the qualified facility.

E. When the business provides a fully completed exemption certificate, Form ST3, to its utility provider, it must indicate on the form the percentage of the total electricity in the qualified facility that qualifies for the exemption.

F. The sales tax exemption for electricity does not apply to other utilities. Services other than electricity—for example, natural gas, water, or telecommunications services—are not included in this exemption.

G. The Department will allow a refund claim for sales tax paid on electricity only to the extent the electricity was used or consumed after the date the facility became a qualified facility.

## V. Refunds—Processing Claims and “Owner of the Qualifying Business”

A. The “owner of the qualifying business,” as that term is used in *Minnesota Statutes*, section 297A.75, subdivision 2, clause (7), is one of the following:

1. Where the qualified facility is used to house “enterprise information technology equipment” and all of that equipment is owned by one person, that person is the “owner of the qualifying business” and may apply for a refund of the tax paid on that equipment and related software.

2. Where the qualified facility is used to house multiple and distinct “enterprise information technology equipment,” and different enterprise information technology equipment is owned by different persons, each person is the “owner of the qualifying business” for purposes of applying for a refund of the sales tax paid on the equipment and its related software that are owned by that person.

B. For purposes of processing the refund claim, the department will presume the sales tax was reported on a sales tax return for the month corresponding with the date of the purchase of enterprise information technology equipment and computer software, based on the date of the invoice or billing statement.

# Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Department of Human Services

### MNsure

#### Call for Applications for MNsure Advisory Committee Membership

**NOTICE IS HEREBY GIVEN** that the MNsure Board of Directors is in the process of recruiting members to fill open seats on its two statutorily-required Advisory Committees. The Advisory Committees are tasked with providing input representative of the various stakeholder groups affected by MNsure so as to better align the long-term future of MNsure with the needs of the public. Members are each appointed by the MNsure Board to a two-year term and may serve a maximum of two complete consecutive terms.

Currently, the Board is seeking applicants for two Committees: the Health Industry Advisory Committee and the Consumer and Small Employer Advisory Committee. Additional information on these Advisory Committees is available on the MNsure website.

Minnesotans who are interested in serving on these MNsure Advisory Committees are asked to complete an application, available on the MNsure website, [MNsure.org](http://MNsure.org).

Submissions are due by **5 p.m. on Thursday, October 20, 2016**, and must include (1) a résumé and (2) the application, which includes submission of basic contact information and a description of why the applicant is interested in serving on the committee.

Submissions may be made electronically via email to: [MNsureBoard@state.mn.us](mailto:MNsureBoard@state.mn.us).

They may also be mailed physically to:

MNsure  
Attn: Board Advisory Committees  
81 East Seventh St., Suite 300  
St. Paul, MN 55101-2211

The MNsure Board will review applications and anticipates making appointments in November 2016.

If you have questions or would like to request another format of the application, please contact Aaron Sinner at 651-539-2058 or via email at [aaron.sinner@state.mn.us](mailto:aaron.sinner@state.mn.us).

## Minnesota Pollution Control Agency

### Environmental Analysis and Outcomes Division

#### Public Notice of Proposed State Implementation Plan Revision

**NOTICE IS HEREBY GIVEN** that the Commissioner of the Minnesota Pollution Control Agency (MPCA) has determined that a State Implementation Plan (SIP) revision must be submitted to meet Minnesota's requirements under sections 110(a)(2)(A) of the Clean Air Act (the Act). The draft SIP revision is now available for public comment.

**Background.** Section 110(a)(2)(A) of the Act requires that SIPs contain enforceable emission limitations as may be necessary or appropriate to meet applicable requirements of the Act. In accordance with Section 302(k) of the Act, these emissions limitations must be continuous. On May 22, 2015, the U.S. Environmental Protection Agency (EPA) issued a finding that the SIPs of 36 states, including Minnesota, contained provisions pertaining to emissions during periods of startup, shutdown, or malfunction (SSM) that conflicted with the Act. The finding was published in the *Federal Register* (FR) on June 12, 2015 (80 FR 33839). Minnesota's SIP currently contains a provision, Minnesota Rule (Minn. R.) 7011.1415, that allows an automatic exemption from

petroleum refinery performance standards for flares burning process upset gas (any gas generated by a petroleum refinery process unit as a result of start-up, shutdown, upset, or malfunction) when the flares are caused by SSM. EPA identified this exemption as being in conflict with the Act, because it explicitly allows for excess emissions that violate the continuous emissions limitations contained in the SIP. EPA's finding requires that Minnesota remedy this SIP inadequacy and remove the exemption contained in Minn. R. 7011.1415 no later than November 22, 2016.

**Purpose of the SIP revision.** The purpose of this SIP revision is to fulfill Minnesota's responsibility under the Act to demonstrate its compliance with Section 110(a)(2)(A) of the Act and address EPA's finding of SIP inadequacy for Minnesota.

Minnesota is repealing Minn. R. 7011.1415, eliminating the exemption from petroleum refinery performance standards for flares burning process upset gas the flares are caused by SSM.

When finalized, this rule repeal will ensure that Minnesota's SIP fully complies with section 110(a)(2)(A) of the Act by providing for continuous, enforceable emissions limitations as needed to comply with the NAAQS and meet all other applicable requirements of the Act. The rule repeal is expected to be effective by the end of 2016.

The MPCA will therefore request that EPA remove Minn. R. 7011.1415 from Minnesota's SIP.

The MPCA will consider changing the contents of the proposed SIP revision based on comments received during the comment period. Following the end of the comment period, the Commissioner will decide whether to submit the proposed SIP revision to the EPA.

**MPCA contact person.** The MPCA contact person is Melissa Andersen Kuskie. Written comments, requests, and petitions should be mailed to: Melissa Andersen Kuskie, Minnesota Pollution Control Agency, Environmental Analysis and Outcomes Division, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone: 651-757-2512 or toll free 1-800-657-3864; fax: 651-297-8324; and email: [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us). TTY users may call the MPCA at TTY 651-252-5332 or 1-800-657-3864.

**Availability of SIP.** A copy of the proposed SIP revision is available on the MPCA's web site at <https://www.pca.state.mn.us/public-notice>. A copy of the proposed SIP revision is also available upon request by contacting Melissa Andersen Kuskie at 651-757-2512 or [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us), or can be mailed to any interested person upon the MPCA's receipt of a written request. Additional materials relating to the SIP revision are available for inspection by appointment at the MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194, between the hours of 7:00 a.m. and 3:00 p.m., Monday through Friday. To examine these materials, or for more information, please contact Melissa Andersen Kuskie. All MPCA offices may be reached by calling 1-800-657-3864.

**Public comment period and potential public meeting.** The public comment period begins October 11, 2016 and ends on November 9, 2016. Your comments must be in writing and received by Melissa Andersen Kuskie by **4:00 p.m. on November 9, 2016**. Written comments may be submitted to her at the address, facsimile number, or e-mail address listed above.

A public information meeting on this proposed SIP revision will only be held if one is requested by 4:00 p.m. on November 9, 2016. If such a meeting is requested, it will be held on November 10, 2016 from 1:00 p.m. to 3:00 p.m. at the MPCA St. Paul Office, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194. To find out if a public information meeting will be held, please contact Melissa Andersen Kuskie at 651-757-2512 or [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us) after 4:00 p.m. on November 9, 2016. The public information meeting, if one is requested, will provide information, receive public input, and answer questions about the proposed SIP revision.

# State Contracts

**Informal Solicitations:** Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Website at [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us) for informal solicitation announcements.

**Formal Solicitations:** Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

**Requirements:** There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements: \$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600 \$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days; \$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days.

## Department of Administration Farm Land for Lease

The State of Minnesota, Department of Administration, is offering to lease by bid for the 2017 and 2018 crop season approximately Seventy Six and Nine-Tenths (76.9) acres of farm land for agricultural purposes at the St. Cloud Corrections Facility. There is a minimum bid requirement of \$3,200.00 per year. For further information and bid forms contact the Accounting Supervisor at the St. Cloud Correctional Facility (320) 240-3073.

BIDS MUST BE SUBMITTED TO THE DEPARTMENT OF ADMINISTRATION, REAL ESTATE AND CONSTRUCTION SERVICES, 50 SHERBURNE AVE #309, ST. PAUL, MN 55155 no later than 2:30 p.m. on November 1, 2016.

## Minnesota State Colleges and Universities (MnSCU)

### Minneapolis Community and Technical College (MCTC)

### Request for Proposal for Navigator for MnAmp Grant

**PROJECT NAME:** MnAmp Grant Navigator

**DETAILS:** Minneapolis Community and Technical College (MCTC) is requesting proposals for a Navigator to provide outreach to communities including (but not limited to) Dislocated Worker, Workforce Investment Act, TAA, and other workforce program participants, veterans, Workforce Center staff, community program staff, other community based organizations and general public. Navigator will represent MCTC to internal and external audience and stakeholders to encourage prospects to utilize training resources at the college within the MnAMP grant. Navigator will also provide, as needed, wrap-around services, including (but not limited to) work readiness training, job placement resources and life-need service referrals. Navigator will collaborate with MCTC staff to promote programs and services.

Work is anticipated to start November 1, 2016 or as soon as possible.

**COPY REQUEST:** To get a copy of the Request for Proposal and Bid Form, please send a written request by email to Heather Schultz at MCTC, [Heather.Schultz@minneapolis.edu](mailto:Heather.Schultz@minneapolis.edu)

**PROPOSAL DEADLINE:** Proposals submitted in response to the Request for Proposals in this advertisement must be received by email no later than **October 24, 2016. Late proposals will not be considered. Mailed or Faxed proposals will not be considered.** This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

## Iron Range Resources and Rehabilitation Board (IRRRB)

### Giants Ridge Recreation Area

#### Request for Proposals to Provide Full-Service Marketing, Public Relations and Event Planning Services to Giants Ridge in Biwabik, Minnesota

The IRRRB is requesting proposals from interested, qualified advertising firms to provide full-service marketing, public relations and event planning services to Giants Ridge in Biwabik, Minnesota. The selected firm will plan, develop, execute and track the results of Giants Ridge's marketing plan and assist Giants Ridge to determine additional marketing strategies to increase attendance and revenue based on current media buys. Contractor responsibilities and respondent proposal requirements can be obtained from the IRRRB website: <http://mn.gov/irrrb/about-us/work-with-us/> on or after September 26, 2016. Sealed proposals must be received no later than **2:00 p.m. on Monday, October 17, 2016**. Faxed or emailed responses will not be permitted.

Please submit completed proposals to:

Kim Peterson  
Contract Coordinator  
Iron Range Resources and Rehabilitation  
PO Box 441, 4261 Highway 53 S.  
Eveleth, MN 55734

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

## Minnesota Department of Transportation (Mn/DOT)

### Engineering Services Division

#### Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities ("Consultant Pre-Qualification Program")

This document is available in alternative formats for persons with disabilities by calling Kelly Arneson at (651) 366-4774; for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

Mn/DOT, worked in conjunction with the Consultant Reform Committee, the American Council of Engineering Companies of Minnesota (ACEC/MN), and the Department of Administration, to develop the Consultant Pre-Qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT awards most of its consultant contracts for highway-related technical activities using this method, however, Mn/DOT also reserves the right to use Request for Proposal (RFP) or other selection processes for particular projects.

Nothing in this solicitation requires Mn/DOT to use the Consultant Pre-Qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to expenses are incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and applications forms are available on Mn/DOT's Consultant Services web site at: <http://www.dot.state.mn.us/consult>.

Send completed application material to:

Kelly Arneson  
Consultant Services  
Office of Technical Support  
Minnesota Department of Transportation  
395 John Ireland Blvd. - Mail Stop 680  
St. Paul, MN 55155

# State Contracts

## Minnesota Department of Transportation (Mn/DOT)

### Engineering Services Division

#### Notice Concerning Professional/Technical Contract Opportunities and Taxpayers' Transportation Accountability Act Notices

**NOTICE TO ALL:** The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services **website** at: [www.dot.state.mn.us/consult](http://www.dot.state.mn.us/consult)

New Public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice. Mn/DOT is also posting notices as required by the Taxpayers' Transportation Accountability Act on the above referenced website.

## Non-State Public Bids, Contracts & Grants

The State Register also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Besides the following listing, readers are advised to check: <http://www.mmd.admin.state.mn.us/solicitations.htm> as well as the Office of Grants Management (OGM) at: <http://www.grants.state.mn.us/public/>.

## Metropolitan Airports Commission (MAC)

### Notice of Call for Bids for 2016 Terminal 1-Lindbergh Building Remediation Program

**Airport Location:** Minneapolis-St. Paul International Airport  
**Project Name:** 2016 Terminal 1-Lindbergh Building Remediation Program  
**MAC Contract No:** 106-2-796  
**Bids Close At:** 2:00 p.m. on Tuesday, October 25, 2016

**Notice to Contractors:** Sealed Bid Proposals the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. This work is related to the maintenance of the exterior building envelope of Terminal 1-Lindbergh. The work includes, but is not limited to, the removal and replacement of the following: curtain wall, curtain wall gaskets, metal panels, sealant work at exterior metal panels, and doors. Related electrical and mechanical systems will be reconfigured to facilitate this scope of work.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE_RED) and choose this and other topics about which you are interested.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 7%.

**Bid Security:** Each bid shall be accompanied by a "Bid Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

# **Non-State Public Bids, Contracts & Grants**

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of Alliance; at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: Franz Reprographics; 2781 Freeway Boulevard, Suite 100; Brooklyn Center, MN 55430; PH: 763.503.3401; FX: 763.503.3409. Make checks payable to: Alliance. Deposit per set (refundable): \$150. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 3, 2016, at MAC's web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).

## **Metropolitan Airports Commission (MAC)**

### **Notice of Call for Bids for 2016 Commission Chambers Telecoil Installation & A/V Upgrades**

**Airport Location:** Minneapolis-St. Paul International Airport  
**Project Name:** 2016 Commission Chambers Telecoil Installation & A/V Upgrades  
**MAC Contract No.:** 106-2-803  
**Bids Close At:** 2:00 p.m. Tuesday, October 18, 2016

**Notice to Contractors:** Sealed Bid Proposals for the project will be received by the MAC, a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. This project includes work in the Commission Chambers, located in Terminal 1-Lindbergh, Minneapolis-St. Paul International Airport. The scope of work includes audio/visual equipment to comprise assistive listening systems, for hearing-impaired persons.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE_RED) and choose this and other topics about which you are interested.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 3%.

**Bid Security:** Each bid shall be accompanied by a "Bid Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of Michaud Cooley Erickson; at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: Franz Reprographics; 2781 Freeway Boulevard, Suite 100; Brooklyn Center, MN 55430; PH: 763.503.3401; FX 763.503.3409. Make checks payable to: Michaud Cooley Erickson. Deposit per set (refundable): \$150. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 3, 2016, at MAC's web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).

## **Metropolitan Airports Commission (MAC)**

### **Notice of Call for Bids for 2016 General Office Security Enhancements**

**Airport Location:** Proximate to the Minneapolis-St. Paul International Airport  
**Project Name:** 2016 General Office Security Enhancements  
**MAC Contract No.:** 106-3-519  
**Bids Close At:** 2:00 p.m. October 18, 2016

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. This project includes general, mechanical, and electrical and technology construction work.

# Non-State Public Bids, Contracts & Grants

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE_RED) and choose this and other topics about which you are interested.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 7%.

**Bid Security:** Each bid shall be accompanied by a “Bid Security” in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of Miller Dunwiddie Architecture, Inc.; at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from Franz Reprographics; 2781 Freeway Blvd. ; Brooklyn Center, MN 55430; PH: 763-503-3401; FX: 763-503-3409; [www.franzrepro.com](http://www.franzrepro.com). Make checks payable to: Miller Dunwiddie Architecture, Inc. Deposit per set (refundable): \$100.00. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 3, 2016, at MAC’s web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).

## Metropolitan Airports Commission (MAC)

### Notice of Call for Bids for 2016 GSE Power Charger Stations – Phase 2

**Project Location:** Minneapolis-St. Paul International Airport  
**Project Name:** 2016 GSE Power Charger Stations – Phase 2  
**MAC Contract No.** 106-3-563  
**Bids Close At:** 2:00 PM on October 25, 2016

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040 28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. This project provides for the installation of battery charging equipment for Ground Service Equipment (GSE) in the Main Baggage Area Locations 1 and 2.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE_RED) and choose this and other topics about which you are interested.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 2%.

**Bid Security:** Each bid shall be accompanied by a “Bid-Security” in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of: TKDA, the Minnesota Builders Exchange, Dodge Data and Analytics, and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from TKDA; 444 Cedar Street, Suite 1500; St. Paul, MN 55101; PH: (651) 292-4400; FX: (651) 292-0083. Make checks payable to: TKDA. Deposit per set (refundable): \$50.00. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 3, 2016, at MAC’s web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).



# **Non-State Public Bids, Contracts & Grants**

## **Metropolitan Airports Commission (MAC)**

### **Notice of Call for Bids for 2016 Runway Planing and Regrooving - Rebid**

**Project Location:** Minneapolis-St. Paul International Airport  
**Project Name:** 2016 Runway Planing and Regrooving - Rebid  
**MAC Contract No.** 106-1-277  
**Bids Close At:** 2:00 PM on October 25, 2016

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040 28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. This project provides for the planing of concrete runway pavements to improve surface texture followed by re-grooving of the planed areas. The project also includes pavement marking and electrical work.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE_RED) and choose this and other topics about which you are interested.

#### **Targeted Group Businesses (TGB)**

The goal of the MAC for the utilization of TGB on this project is 3%.

**Bid Security:** Each bid shall be accompanied by a "Bid-Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of TKDA, the Minnesota Builders Exchange, Dodge Data and Analytics, and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: TKDA; 444 Cedar Street, Suite 1500; St. Paul, MN 55101; PH: (651) 292-4400; FX: (651) 292-0083. Make checks payable to TKDA. Deposit per set (refundable): \$100.00. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 10, 2016, at MAC's web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).

## **Metropolitan Airports Commission (MAC)**

### **Notice of Call for Bids for 2016 Mother Lake Stormwater Improvements - Rebid**

**Project Location:** Minneapolis-St. Paul International Airport  
**Project Name:** 2016 Mother Lake Stormwater Improvements - Rebid  
**MAC Contract No.** 106-1-278  
**Bids Close At:** 2:00 PM on October 25, 2016

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040 28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. This project provides for the construction of a sediment removal structure and associated storm sewer construction near the west end of Runway 12R-30L. The project also includes construction of an aggregate-surfaced access road.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE_RED) and choose this and other topics about which you are interested.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 11%.

**Bid Security:** Each bid shall be accompanied by a "Bid-Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

# Non-State Public Bids, Contracts & Grants

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of TKDA, the Minnesota Builders Exchange, Dodge Data and Analytics, and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: TKDA; 444 Cedar Street, Suite 1500; St. Paul, MN 55101; PH: (651) 292-4400; FX: (651) 292-0083. Make checks payable to: TKDA. Deposit per set (refundable): \$50.00. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 10, 2016, at MAC's web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).

## Metropolitan Airports Commission (MAC)

### Notice of Call for Bids for 2016 Mezzanine HVAC/AHU Replacement & Penthouse (South)

**Airport Location:** Minneapolis-St. Paul International Airport  
**Project Name:** 2016 Mezzanine HVAC/AHU Replacement & Penthouse (South)  
**MAC Contract No:** 106-2-806  
**Bids Close At:** 2:00 pm on Tuesday, 25 October 2016

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. The work of this project includes building a new mechanical penthouse on an existing roof. Some of the new mechanical, electrical and telecommunication equipment and systems that are installed by this project replace existing, and require the removal and re-routing of equipment and systems.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to [https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE\\_RED](https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE_RED) and choose this and other topics about which you are interested.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 7%.

**Bid Security:** Each bid shall be accompanied by a "Bid Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota

**Project Labor Agreement:** This project is subject to the MAC's Project Labor Agreement requirements. A copy of the Project Labor Agreement and Contract Riders are included in the Appendix.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of Alliiance; at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: Franz Reprographics; 2781 Freeway Boulevard, Suite 100; Brooklyn Center, MN 55430; PH: 763.503.3401; FX: 763.503.3409. Make checks payable to: Alliiance. Deposit per set (refundable): \$150. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 10, 2016, at MAC's web address of <http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx> (construction bids).



### Appendix 3: Response to comments and comments received

The MPCA received two comment letters on the proposed SIP revision: one from St. Paul Park Refining Co., and one from the Sierra Club. The MPCA has summarized comments received on the proposed SIP revision and provided response to those comments below. Full comment letters are attached to this Appendix.

#### 1. ST. PAUL PARK REFINING CO., LETTER RECEIVED NOVEMBER 8, 2016

**Comment 1A:** The MPCA should be aware that the timing of this proposed revision (elimination of the exemption for upset flaring under Minn. R. 7011.1415) creates a potential compliance gap until the MPCA's proposed Omnibus rulemaking is completed. The Omnibus rule action includes language clarifying that Minn R. 7011.1405 and 7011.1410 do not apply to flares subject to New Source Performance Standard (NSPS) Subpart Ja. Until that rule action is complete, we believe that refinery flares operating in compliance with NSPS Subpart Ja could be subject to the action in the SIP (which would, without the clarifying language regarding Minn. R. 7011.1405 and 7011.1410, seem to eliminate any exemption for flaring under upset conditions. Flaring under upset conditions is, however, allowed, but regulated, under the NSPS Subpart Ja). We believe that the SIP change should be completed at the same time as the changes to Minn. R. 7011.1405 and 7011.1410.

**Response 1A:** As described in the SIP narrative, EPA's SIP call requires affected states to submit corrective SIP revisions by November 22, 2016. This SIP revision provides finalized rule language repealing the SIP-call-identified rule provision in Minn. R. 7011.1415. The MPCA signed the order adopting the Omnibus Air Rule on October 25, 2016, and is currently preparing publication of the Notice of Adoption in the Minnesota *State Register*. The repeal will be effective five working days after publication. We expect publication in December 2016. In short, the SIP submittal will pre-date the adopted rule's effective date by a matter of a few weeks.

Additionally, while the MPCA will submit the SIP by the November 22, 2016 SIP call deadline, the actual repeal of Minn. R. 7011.1415 will occur on the Omnibus Air Rule effective date a few weeks later. The Omnibus Air Rule contains both the repeal of Minn. R. 7011.1415 and the clarifying language regarding Minn. R. 7011.1405 and 7011.1410. The actual removal of the problematic provision from Minnesota's SIP is dependent upon EPA approval of the SSM SIP revision, not upon MPCA's submittal of the SIP revision. EPA will not provide final approval for a SIP revision until rule language supporting the SIP action is in effect. Therefore, submittal of the SIP revision prior to the Omnibus Air Rule effective date will not create a compliance gap.

#### 2. SIERRA CLUB, LETTER RECEIVED NOVEMBER 9, 2016

**Comment 2A:** Sierra Club has several serious concerns with the proposed inclusion of Minn R. 7007.0100, subp. 6a – a definition for “alternative operating scenario” in its SIP. We believe the rule language does not comply with the SSM SIP Call policy or the Clean Air Act for the following reasons:

- Alternative emissions limits must be included in an approved SIP, not merely in permits
- MPCA has failed to demonstrate that its proposed reliance on alternative emission standards is appropriate by limiting their availability to specific, narrowly defined source categories using specific control strategies or by making such alternative limits available only for sources showing that it is “technically infeasible” to meet the numeric limitations during startup and shutdown. MPCA has also failed to demonstrate that the alternative operating scenario inclusion will not violate the NAAQS or PSD increments, and failed to include reporting requirements in the SIP.

**Response 2A:** The comment is outside the scope of the SIP action. The SSM SIP revision is very limited in scope, intending only to address the SIP inadequacy identified by EPA in its May 22, 2015 SIP call, which specifically addressed a need to repeal and remove from the SIP Minn. R. 7011.1415. This SIP revision requests that action alone, and does not propose inclusion of “alternative operating scenario” language in the SIP at this time.

The commenter does identify other rule language finalized in the MPCA's Omnibus Air Rule – the larger rulemaking action the agency has undertaken as an ongoing effort to maintain and improve the MPCA's existing rules. The overall purpose of the Omnibus Air rulemaking was to keep air quality rules current, make minor changes to existing rules, clarify ambiguous rule language, correct known gaps or errors in existing rule language, and ensure consistency with applicable state and federal regulations. The Omnibus Air Rule does include repeal of Minn. R. 7011.1415, which is addressed in this SIP revision, as well as a number of other SIP-relevant rule changes – including the provision described above – that will be addressed in a later SIP revision. Due to the timing the Omnibus Air Rule action, the MPCA did not have adequate time to prepare a large Omnibus/Housekeeping SIP revision while still meeting the November 22, 2016 deadline identified in the SSM SIP call. The MPCA plans to begin work on this larger SIP action early in 2017, and encourages the commenter to revisit the above issue during the public notice and comment period for that SIP action.



VIA ELECTRONIC MAIL

Melissa Kuskie  
Minnesota Pollution Control Agency  
Environmental Analysis and Outcomes Division  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194  
[melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us)

November 9, 2016

**RE: Sierra Club Comments on Minnesota Pollution Control Agency's Proposed State Implementation Plan ("SIP") Amendments in Response to EPA's Startup, Shutdown, and Malfunction SIP Call, 80 Fed. Reg. 33840**

Dear Ms. Kuskie:

Please accept these comments submitted on behalf of Sierra Club regarding the Minnesota Pollution Control Agency's ("MPCA's") proposal to repeal Minnesota Rule 7011.1415, and its proposed amendment to Minnesota Rule 7007.0100, subp. 6a.<sup>1</sup> The rule is intended to comply with EPA's recently finalized rulemaking, State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, 80 Fed. Reg. 33840 (June 12, 2015) [hereinafter, "SSM SIP Call"]. Although we agree that, as required by EPA's SSM SIP Call, MPCA must repeal the subsections of its SIP that exempt excess "process gas" emissions—Minnesota Rule 7011.1415—we have serious concerns regarding MPCA's proposed "alternative operating scenarios" in Minnesota Rule 7007.0100, subp. 6a.

## **I. INTRODUCTION**

On behalf of their thousands of members and supporters who live, work, and recreate in Minnesota, Sierra Club appreciate the opportunity to provide these comments concerning MPCA's proposal to amend its State Implementation Plan ("SIP") and associated Minnesota Rule provisions in response to EPA's SSM SIP Call for Minnesota. Sierra Club is the nation's oldest and largest grassroots environmental organization and is dedicated to the protection of the natural environment and public health.

Sierra Club's members and supporters have been directly and adversely impacted by startup, shutdown, and malfunction events. This is because power plants and other industrial facilities can emit massive amounts of particulate matter and other pollutants during periods of

---

<sup>1</sup> See also <https://www.pca.state.mn.us/sites/default/files/SSM%20SIP.pdf>

startup, shutdown, or malfunction. Indeed, as part of its SSM SIP Call rulemaking, EPA recognized the practical consequences of SSM exemptions, noting “one malfunction that was estimated to emit 11,000 pounds of [sulfur dioxide] SO<sub>2</sub> over a 9-hour period when the applicable limit was 3,200 pounds per day.” Memorandum dated Feb. 4, 2013, to EPA Docket No. EPA-HQ-OAR-2012-0322 at 23, *available at* [https://www3.epa.gov/airquality/urbanair/sipstatus/docs/ssm\\_memo\\_021213.pdf](https://www3.epa.gov/airquality/urbanair/sipstatus/docs/ssm_memo_021213.pdf). These large SSM pollution exceedances can occur many times each year. After reviewing data from numerous power plants as part of the Mercury and Air Toxics rulemaking, EPA found that the “average” electric generating unit (“EGU”) had between 9 and 10 startup events per year between 2011 and 2012, and that many EGUs had “over 100 startup events in 2011 and over 80 in 2012.” Assessment of startup period at coal-fired electric generating units – Revised,” at p. 4 (Nov. 2014).<sup>2</sup>

Given the huge emissions possible during startup and shutdown, reducing startup and shutdown emissions from fuel-burning sources should be a priority for MPCA. Indeed, these SSM events can severely impact the quality of life around power plants and industrial facilities, and many Sierra Club members are concerned that SSM events can cause or exacerbate respiratory illnesses, heart disease, renal failure, rashes, and nose and throat irritation, nausea, and even impairing smell and taste.<sup>3</sup> Moreover, these SSM events tend to disproportionately impact the minority and low income communities surrounding these facilities.

While we commend MPCA for recognizing and proposing to repeal the unlawful SSM exemptions that EPA identified in its SSM SIP Call, Minnesota’s proposed “alternative operating scenario” proposal does little (if anything) to reduce harmful emissions at affected facilities in Minnesota during SSM events. As described in more detail below, Minnesota’s proposed “alternative operating scenario” are flawed in several respects, do not meet the requirements of the Clean Air Act or EPA’s final SSM policy, and are not approvable by EPA. Minnesota must make several changes to ensure that the “alternative operating scenario” provision conforms with the Clean Air Act and EPA’s SSM policy.

## **II. EPA’s SSM SIP CALL**

EPA’s SSM SIP Call requires 36 states, including Minnesota, to remove from their SIPs exemptions and affirmative defenses that allow industrial facilities to pollute the air without consequences when those facilities start up, shut down, or experience self-diagnosed “malfunctions.” 80 Fed. Reg. 33,840 (June 12, 2015). In particular, EPA found that SIPs with provisions that exempt emissions during start-up, shutdown, and maintenance—like Minnesota’s current SIP—are substantially inadequate to meet Clean Air Act requirements. In addition to requiring the 36 states whose SIPs contain these exemptions or affirmative defense provisions to remove these provisions from their SIPs, the SIP Call also revises EPA’s policy for SIP provisions addressing excess emissions during SSM events. *Id.* The SIP Call allows states 18 months to submit revised SIPs to EPA, which is the maximum time allowable under the statute. *Id.* at 33,848; 42 U.S.C. § 7410(k)(5).

---

<sup>2</sup> *Available at* <https://www3.epa.gov/airtoxics/utility/matsssfinalruletsd110414.pdf>.

<sup>3</sup> Ex. 1 at ¶¶7-10.

The SIP Call increases protections for communities against harmful air pollution from industrial facilities. EPA expects that “revision of the existing deficient SIP provisions has the potential to decrease emissions significantly in comparison to existing provisions,... encourage sources to reduce emissions during startup and shutdown and to take steps to avoid malfunctions, should provide increased incentive for sources to be properly designed, operated and maintained in order to reduce emissions at all times, ... [and] has the potential to result in significant emission control and air quality improvements.” *Id.* at 33,955-56. Importantly, beyond the legal deficiencies in the provisions, “the results of automatic and discretionary exemptions in SIP provisions, and of other provisions that interfere with effective enforcement of SIPs, are real-world consequences that adversely affect public health. *Id.* at 33,850.

Because facilities subject to the Clean Air Act (“CAA”) can emit massive amounts of particulate matter, sulfur dioxide, nitrogen oxide, and other harmful air pollution during periods of start-up, shutdown, and maintenance, it is imperative that Minnesota include strong SIP provisions governing emissions during these periods to protect fence-line and other communities. Indeed, EPA expects that “revision of the existing deficient SIP provisions [including Minnesota’s] has the potential to decrease emissions significantly in comparison to existing provisions” because these required revisions will “encourage sources to reduce emissions during startup and shutdown and to take steps to avoid malfunctions, ... should provide increased incentive for sources to be properly designed, operated and maintained in order to reduce emissions at *all* times.” 80 Fed. Reg. at 33,955-56 (emphasis added). SSM exemptions, like those in the current Minnesota SIP, have “real-world consequences that adversely affect public health,” and removing those exemptions “has the potential to result in significant emission control and air quality improvement.” *Id.* at 33,850.

### **III. MPCA MUST REMOVE THE SSM EXEMPTION FROM MINNESOTA REGULATIONS**

As MPCA correctly recognizes, EPA’s SSM SIP Call requires the state to remove the start-up, shutdown, and malfunction exemptions currently found at Minnesota Rule 7011.1415. Indeed, the best approach to the SSM SIP Call is for MPCA to simply remove the illegal SSM exemption from the Minnesota SIP. Removing these exemptions would mean that the normal SIP emission limits that are designed to protect air quality and comply with the Act’s requirements would apply continuously, as required by the Clean Air Act. And EPA has made clear that it should be technically feasible for most sources to “meet the same emission limitation” during *both* “steady-state” and startup/shutdown periods. 80 Fed. Reg. 33,840, 33,979 (June 12, 2015). In fact, in the SSM SIP Call EPA expressed its strong preference for *numeric* limitations during all operations, and many of the states and territories not included in EPA’s SIP Call have regulations that require just that—*i.e.*, that sources meet SIP emission limits at *all* times. Moreover, removal of the exemption would avoid concerns about conformity with the Clean Air Act, as well as litigation and administrative risks associated with EPA review and approval. Because MPCA’s primary consideration should be protection of public health in strict compliance with the federal Clean Air Act, the agency should simply remove those exemptions without attempting to create impractical and unenforceable work practice standards.

#### IV. SPECIFIC PROBLEMS WITH MPCA'S WORK PRACTICES PROPOSAL

Sierra Club has several serious concerns with the proposed inclusion of Minnesota Rule 7007.0100, subp. 6a in its SIP. The key language in the proposed revision provides:

Alternative operating scenario. "Alternative operating scenario" means a scenario authorized in a part 70 permit that involves a change at the part 70 source for a particular emissions unit and that either results in the unit being subject to one or more applicable requirements that differ from those applicable to the emissions unit prior to implementation of the change or renders inapplicable one or more requirements previously applicable to the emissions unit prior to implementation of the change.

40 SR 1090. MPCA proposes to incorporate this definition by reference into multiple provisions of the SIP. As specified below, we have this proposed language does not comply with EPA's SSM SIP Call policy or the Clean Air Act.

##### *A. Alternative Emissions Limits Must Be Included in an Approved SIP, Not Merely in Permits*

To address SSM operations MPCA proposes authorize "alternative operating scenarios" into individual Title V or Part 70 operating permits. This language is impermissibly vague and appears to inappropriately allow for the development of alternative emission limits outside of the SIP approval process. EPA's SIP Call Rule makes it clear that alternative emissions limits must be included in *an approved SIP, not merely in permits*. 80 Fed. Reg. at 33,915. As EPA explains, the "SIP needs to reflect the control obligations of sources, and any revision or modification of those obligations *should not be occurring through a separate process, such as a permit process*, which would not ensure that "alternative" compliance options do not weaken the SIP." 80 Fed. Reg. 33,915 (emphasis added). As a result, "any revisions to obligations in the SIP *need to occur through the SIP revision process....*" 80 Fed. Reg. 33,916 (emphasis added). Any alternative emissions limits must therefore comply with the SIP process, including providing the requisite notice and comment period, and all other SIP limit change public participation and other process requirements.

##### *B. MPCA Has Failed to Demonstrate that its Proposed Reliance on Alternative Emission Standards is Appropriate Under these Circumstances*

In its SIP Call rule, EPA identifies the following criteria by which alternative emissions limits for startup and shutdown should be developed:

- (1) the alternative emission limitation is "limited to specific, narrowly defined source categories using specific control strategies,"
- (2) use of the control strategy for the source category is "technically infeasible" during startup/shutdown,
- (3) the limit requires that the frequency and duration of operation in startup/shutdown mode are "minimized to the greatest extent practicable,"



- (4) the state analyzes the potential worst-case emissions that could occur during startup/shutdown based on the proposed limit,
- (5) the limit requires that “all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality,”
- (6) the limitation requires that “at all times, the facility is operating in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures,” and
- (7) the actions during startup/shutdown are properly documented.

*Id.* at 33914.

Importantly, EPA further states that alternative requirements applicable to the source during startup and shutdown should be “narrowly tailored and take into account considerations such as the technological limitations of the specific source category and the control technology that is feasible during startup and shutdown.” *Id.* at 33913.

MPCA’s proposed alternative operating scenarios are not only too vague and ambiguous to be enforceable, but they do not appear to reflect consideration of the seven specific criteria by which alternative emission limitations for startup and shutdown should be developed. In particular, MPCA’s has failed to demonstrate that its alternative operating scenario would be (1) narrowly tailored to defined source categories using specific control strategies; (2) that the use of the control strategy for the source category is “technically infeasible” during startup or shutdown; (3) the state analyzed the potential worst-case emissions that could occur during startup/shutdown based on the proposed limit; and (4) the agency has failed to include specific reporting requirements for sources that opt for alternative operating scenarios.

#### 1. MPCA’s Work Practice Standards Are Not Narrowly Tailored

Minnesota’s proposed alternative operating scenarios do not appear to be “limited to specific, narrowly defined source categories using specific control strategies.” *Id.* at 33914. Indeed, the standards could apply to virtually every major source without consideration of whether sources are technically capable of complying with numeric SIP limits during periods of startup, shutdown, or malfunction. In the final SSM SIP call rule, EPA confirmed that startup and shutdown are “part of the normal operation of a source and should be accounted for in the design and operation of the source. It should be possible to determine an appropriate form and degree of emission control during startup and shutdown and to achieve that control on a regular basis.” 80 Fed. Reg. at 33979. EPA’s final SSM Policy from the SIP call provides that a “state can develop special, alternative emission limitations that apply during startup or shutdown *if the source cannot meet the otherwise applicable emission limitation in the SIP.*” *Id.* at 33,980 (emphasis added). Thus, alternative compliance plans (in lieu of having to meet normal SIP limits during startup and shutdown) are *only* appropriate for those narrowly limited source categories that truly cannot meet numerical limits for particular pollutants during startup and shutdown.

Additionally, Minnesota's proposed work practice standards are not appropriately limited to specific, narrowly defined control strategies or operations. Proposed Rule 7007.0100, subp. 6a indicates that it applies to a "particular emissions unit and that either results in the unit being subject to one or more applicable requirements that differ from those applicable to the emissions unit prior to implementation of the change or renders inapplicable one or more requirements previously applicable to the emissions unit prior to implementation of the change. As an initial matter, control requirements that apply during startup and shutdown must be clearly stated as components of the emission limitation and must meet the applicable level of control required for the type of SIP provision (*e.g.*, be RACT for sources located in nonattainment areas). A generically applicable requirement to operate control equipment is not a narrowly tailored continuous and enforceable limitation.

If alternative operating standards are proper (again, we believe they are not), MPCA should require pollution controls to be operated at specific time points during startup and shutdown. As an example for power plants, MPCA can look to the startup and shutdown work practices from the final Mercury and Air Toxics Standards ("MATS") rule (*before* these work practices were changed on reconsideration).<sup>4</sup> There, for startup, EPA required all pollution controls to be operated once plants begin firing their primary fuel (*e.g.*, coal for coal-fired power plants). 77 Fed. Reg. 9304, 9493 (Feb. 16, 2012).

2. MPCA Has Failed to Demonstrate that it is "Technically Infeasible" for Sources to Meet Numeric Limits During Startup and Shutdown

Consistent with the SIP Call, alternative emissions limits (including work practice standards) should only be available for sources showing that use of controls or meeting numeric limitations are "*technically infeasible*" during that time. 80 Fed. Reg. at 33980 (emphasis added). Such technical infeasibility cannot include sources with outdated or undersized pollution controls that, if properly designed, could operate during startup or shutdown. As EPA made clear in the SSM SIP Call, many (if not all) of the affected sources in Minnesota can and should be required to meet normal SIP limits during startup and shutdown. Because MPCA has failed to provide a factual basis for demonstrating that affected sources are *not* capable of meeting their existing emission limitations at all times, the agency has failed to demonstrate that its proposed alternative operating scenario provision is appropriate under any circumstances. Accordingly, MPCA's proposed work practice standards must be removed from the proposed SIP.

Even for those sources (if any) that truly cannot meet normal limits during startup and shutdown, MPCA should establish alternative numerical limits instead of individualized alternative compliance scenarios. In its SIP Call, EPA also made clear that alternative emission

---

<sup>4</sup> In the D.C. Circuit Court of Appeals, Sierra Club and other organizations are currently challenging EPA's final action on reconsideration of the startup and shutdown provisions of the MATS rule. Sierra Club maintains that EPA's final (reconsideration) definition of startup (which includes a four-hour exemption from numerical emission limits) and startup work practices do not meet the requirements of the Clean Air Act, including the requirement to achieve continuous reductions.

scenarios are only appropriate for those limited periods of time when “*measurement of emissions during startup and/or shutdown is not reasonably feasible.*” See 80 Fed. Reg. at 33,980 (emphasis added). Where possible, establishing numerical limits in lieu of work practices is required by Clean Air Act § 110(a)(2), which provides that SIPs are to include “*enforceable emission limitations . . . as may be necessary or appropriate to meet the applicable requirements*” of the Act.” 42 U.S.C. 7410(a)(2) (emphasis added). In the SSM SIP call, EPA echoed that numerical limits are preferable to work practices in terms of enforceability. See 80 Fed. Reg. at 33974-75 (“There are many sources for which a numerically expressed emission limitation will be the most appropriate and will result in the most legally and practically enforceable SIP requirements”); *id.* at 33979 (“In practice, it may be that numerical emission limitations are the most appropriate from a regulatory perspective (*e.g.*, to be legally and practically enforceable) and thus the emission limitation would need to be established in this form to meet CAA requirements”). At least for power plants, it is demonstrably reasonable to measure NO<sub>x</sub>, SO<sub>2</sub>, and PM emissions during startup and shutdown. For decades, under the Clean Air Act Acid Rain Program, power plants have continuously monitored sulfur dioxide and nitrogen oxide emissions from the moment combustion begins throughout generation.

3. MPCA Must Demonstrate that Its Proposal Will Not Violate the NAAQS or PSD Increments.

Under § 110(l) of the Clean Air Act, EPA cannot approve SIP revisions that would interfere with attainment of the NAAQS or PSD increments: “The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.” 42 U.S.C. § 7410(l). In keeping with this requirement, EPA stated in the SSM SIP call that, “[a]s part of its justification of the SIP revision, the state [should] analyze[] the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation” 80 Fed. Reg. at 33980.

Excess emissions from startup and shutdown events have far-reaching impacts on other requirements of the Act. 78 Fed. Reg. at 12,485. States must rely on assumed continuous compliance with emissions limitations in their modeling exercises to demonstrate attainment and maintenance of ambient air quality standards. See EPA Memorandum to Docket EPA-HQ-OAR-2012-0322, at 14, n. 41 (Feb. 4, 2013) (citing, *inter alia*, CAA sections 110(a)(2)(A)&(C)). In areas that are meeting air quality standards, state plans must include emission limitations designed to ensure that air quality does not worsen. 42 U.S.C. § 7475(a)(3), 40 C.F.R. § 51.166(k)(1); see 78 Fed. Reg. at 12,485. Similarly, in nonattainment areas, nonattainment SIPs must include emission inventories which are comprehensive, accurate, and current of actual emissions and must also include emission statements from stationary sources. See, *e.g.*, 42 U.S.C. §§ 7511(a)(1), (3). Also, in nonattainment areas, state plans must include a program that assures reasonable progress toward attainment of ambient air quality standards. 42 U.S.C. § 7501 *et seq.* Nonattainment NSR permitting requires offsetting of emissions based on permitted emission limits. See, *e.g.*, 42 U.S.C. § 7511(a)(4). There is no way to adjust the required offsets should a source exceed its permitted emission limits during SSM because nonattainment NSR permitting occurs prior to construction and the permits do not ever expire. Plans must also protect scenic views in many of America’s most treasured public lands. 42 U.S.C. § 7491(a)(1).

Here, it does not appear that MPCA has considered the potential effect of its proposed alternative operating scenarios on these required attainment demonstrations and planning under the Act. Indeed, MPCA's narrative SIP revision contains a cursory description of the revision with no analysis whatsoever of the impact of uncontrolled or alternative emissions scenarios during startup and shutdown on any attainment area. Given the huge quantities of emissions that are possible during startup and shutdown (while controls might not be required to operate), MPCA must evaluate the potential worst-case emissions that could occur during startup/shutdown under the proposed alternative compliance standards.

#### 4. MPCA Must Include Reporting Requirements in the SIP

MPCA's proposal does not require sources to report to MPCA any information to assure that sources are complying with the requirements of the rule. Because there is no way for MPCA to know—without requesting documentation from sources—whether sources are complying with the work practice requirements, there is also no way for citizens or EPA to obtain information about whether or not sources are complying with the requirements. Thus, the requirements are *not* practically enforceable by MPCA in enforcement suits. Nor are they enforceable by EPA or citizens in federal court. If MPCA insists on including work practices instead of numerical limits (which we maintain is not consistent with the requirements of the Clean Air Act or the SIP Call rule, and therefore not approvable by EPA or the Eighth Circuit), the agency should require in the SIP itself that the any compliance information for alternative operating scenarios be reported by sources through, at the least, their quarterly Title V compliance reports.

#### *C. MPCA's Alternative Operations Standards are Inappropriate for Additional Reasons*

Apart from the fact that MPCA failed to demonstrate that its alternative operating scenarios are appropriate or enforceable under EPA's SSM SIP criteria, Minnesota's proposal does not meet Clean Air Act § 110's enforceability requirement for other reasons. First, source-specific alternative limits or work practices are generally not proper at all. In the SIP call, EPA specifically stated, "even where a specific type of operation may not during startup and/or shutdown be able to meet an emission limitation that applies during full operation, the state should be able to develop appropriate limitations that would apply to those types of operations at all similar types of facilities. The EPA believes that there will be limited, if any, cases where it may be necessary to develop source-specific emission requirements for startup and/or shutdown." 80 Fed. Reg. at 33915. Additionally, as quoted language above indicates, awarding sources alternative limits or work practices through permits would not ensure these compliance options do not weaken the SIP. *See* 80 Fed. Reg. at 33915. When a state issues SSM limits through alternative plans that are incorporated into permits, it would make it very difficult to assess the collective impact on the NAAQS or PSD increments of multiple permitted alternative SSM limits.

Another problem with the option to pursue source-specific alternative plans is that those provisions do not reflect any consideration of the factors EPA has identified as appropriate considerations for developing alternate SSM requirements. These alternative plans, implemented through a permit, also raise the prospect of "director's discretion" problems addressed in EPA's SIP Call notice because it would allow the state to create alternatives to SIP emission limits without complying with the CAA's SIP revision requirements. Among other things, a permit-

based approach to establishing an alternative emission limitation (that does not involve submitting the permit requirement to EPA for inclusion in the SIP) eliminates EPA's role in reviewing and approving emission limitations to ensure that they are "enforceable" as required by CAA section 110(a)(2)(A)—*i.e.*, that they are sufficiently specific regarding the source's obligations and they include adequate monitoring, recordkeeping, and reporting requirements. To avoid these problems, MPCA should include specific language explaining that source-specific alternative plans are only available as a very last resort upon a sufficient showing that the listed criteria are met, and as discussed above, that such requirements are continuous and enforceable, and subject to the SIP revision process, with the accompanying requirements for public notice and comment.

## **V. CONCLUSION**

Thank you for the opportunity to submit these comments. We respectfully request that MPCA revise its proposed rule as outlined above. Please do not hesitate to contact us with any questions or to discuss the matters raised in these comments.

Sincerely,



Joshua Smith  
Staff Attorney  
2101 Webster St.  
Oakland, CA 94612  
[joshua.smith@sierraclub.org](mailto:joshua.smith@sierraclub.org)

ST. PAUL PARK  
CERTIFIED MAIL: 9171 9690 0935 0089 8787 40

November 8, 2016

Melissa Andersen Kuskie  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, MN 55155-4194

**Re: Comment on Proposed State Implementation Plan Revision**

Dear Ms. Kuskie:

I am writing on behalf of St. Paul Park Refining Co. LLC (SPPRC) to provide formal comment on MPCA's proposed revision to the State Implementation Plan (SIP). SPPRC appreciates the opportunity to provide comment and believes these comments can be addressed in the final SIP.

MPCA placed on public notice February 29, 2016 amendments to the agency's air quality rules including a repeal of Minn. R. 7011.1415, eliminating the exemption from petroleum refinery performance standards for flares burning process upset gas when the flares are caused by startup, shutdown, or malfunction (SSM). SPPRC provided the attached comments to MPCA. The revisions to the air quality rules have not been finalized.

The MPCA should be aware that the timing of this proposed revision (elimination of the exemption for upset flaring under Minn. Rules §7011.1415) creates a potential compliance gap until the MPCA's proposed Omnibus rulemaking is completed. We understand, through discussions with Anne Jackson of the MPCA, that it is MPCA's intent in the Omnibus air rulemaking currently underway, to clarify that Minn. Rules §§ 7011.1405 and .1410 do not apply to flares that are subject to NSPS Subpart Ja. Once that rulemaking is final, refineries will have a clear understanding of their compliance obligations. However, until such time as that omnibus rulemaking is complete, refinery flares operating in compliance with NSPS Subpart Ja also could still potentially be subject to the above-cited provisions with no exemption for flaring under upset conditions, which are allowed, but regulated, under NSPS Ja. SPPRC does not oppose the proposed SIP change, but suggests that the changes to 7011.1405 and 1410 be completed at the same time to address this timing issue. Another option to address this timing issue would be to make the repeal of the exemption under 7011.1415 effective upon EPA approval of the SIP amendment. Regardless, SPPRC supports the finalization of the above-described changes to 7011.1405 and 1410 as soon as possible.

Once again, we appreciate this opportunity to provide comments and are happy to discuss these proposals with MPCA at greater length.

Sincerely,



Kristin Heutmaker  
Environmental and Safety Manager  
St. Paul Park Refining Co.

Attachment

CERTIFIED MAIL: 9171 9690 0935 0093 2463 37



April 1, 2016

Mary H. Lynn  
Minnesota Pollution Control Agency  
520 Lafayette Road  
Saint Paul, MN 55155

**Re: Comment on Proposed Omnibus Rule**

Dear Ms. Lynn:

I am writing on behalf of St. Paul Park Refining Company (SPPRC) to provide formal comment on MPCA's proposed amendments to the agency's air quality rules (the so-called Omnibus Air Rule). SPPRC appreciates the opportunity to provide comment and believes these comments can be addressed in the final rule.

SPPRC's comments focus on the provisions of the proposed rules that address startup, shutdown, maintenance, or malfunction type events. One provision is specific to refinery flares. The second addresses such events generally. Additionally, SPPRC is providing comments on incorporating federal rules by reference and performance test methods.

**Comments on Proposed Revisions to Refinery Standard**

MPCA is proposing to delete Minn. Rules 7011.1415, which creates an exemption from the state standards for fuel gas combustion devices of 162 ppm H<sub>2</sub>S for the combustion of "process upset gas in a flare." This is in response to an EPA request that states address provisions of their State Implementation Plans (SIP's) that establish exemptions for startup, shutdown, or malfunction events (the EPA "SIP Call" published at 80 FR 33840, June 12, 2015). The underlying concern giving rise to the SIP Call is that a blanket exemption for SSM events is not acceptable as part of a state SIP because it is not consistent with a state's obligations to ensure attainment of standards at all times. Section 7011.1415 was specifically identified by EPA as a provision that was an unacceptable exemption. MPCA's proposed response is to simply delete this provision. As set forth in more detail below, SPPRC respectfully suggests that this is not the proper or best response to this issue.

By way of background, there is nothing to suggest that this particular provision has prevented the state of Minnesota from attaining or maintaining the standards. There is no current SO<sub>2</sub> non-attainment issue in Minnesota, and, to the extent an SO<sub>2</sub> non-attainment issue existed in the past, Minnesota elected to implement a system of more specific regulation of SO<sub>2</sub> sources, utilizing administrative orders for specific sources that are individually incorporated into the state SIP.

Further, it is unclear whether the existing rule was part of the state's attainment demonstration or was simply an effort to incorporate a version of the federal source standards into state rule. The rule in question was adopted in the 1970's shortly after the original NSPS Subpart J was adopted,

and the state rule closely mirrors the NSPS language. This suggests that the rule was simply an early effort to incorporate Subpart J into state rules.

Regardless, of the rule's origin, simply deleting the process upset exception is not the best or most appropriate way to address any concerns EPA may have. EPA has offered states a range of tools to respond to the SIP call and address non-normal operating conditions for sources. Specifically, EPA has made it clear that it is appropriate to establish separate emission limits or work practice standards to address any reasonably anticipated non-normal operating conditions.

As part of the SIP Call rule, EPA published a revised SSM policy. That policy, found at 80 FR 33976 (June 12, 2015) makes it clear that to address any SIP concerns, it also is appropriate to separately evaluate and authorize reasonably anticipated non-normal events, by establishing separate emission limits or work practice standards. This is discussed specifically starting at 80 FR 33980.

In that SSM guidance, EPA also specifically provides that states can look to comparable NSPS and NESHAP standards, if they establish separate work practice standards:

The federal NESHAP and NSPS regulations and the technical materials in the public record for those rules may provide assistance for states as they develop and consider emission limitations and alternative emission limitations for sources in their states, and definitions of startup and shutdown events and work practices for them found in these regulations may be appropriate for adoption by the state in certain circumstances. In particular, the NSPS regulations should provide very relevant information for sources of the same type, size and control equipment type, even if the sources were not constructed or modified within a date range that would make them subject to the NSPS. The EPA therefore encourages states to explore these approaches.

In the case of refinery flares, the recently issued NSPS Subpart Ja establishes a structure to address non-normal emissions. In other words, consistent with EPA's SSM guidance, Subpart Ja establishes standards that are intended to apply at all times. Among other things, Subpart Ja establishes work practice standards relating to flare load minimization and procedures to evaluate and minimize unplanned events.

EPA summarized this best in its response to comments for the final Subpart Ja rule at page 96:

Regardless of whether or how the Sierra Club decision under CAA section 112 applies to NSPS promulgated under CAA section 111, we are promulgating final amendments for flares that include a suite of standards that apply at all times and are aimed at reducing SO<sub>2</sub> emissions from flares. As described previously, this suite of standards requires refineries to: (1) develop and implement a FMP; (2) conduct RCA and take corrective action when waste gas sent to the flare exceeds a flow rate of 500,000 scf above the baseline; (3) conduct RCA and take corrective action when SO<sub>2</sub> emissions exceed 500 lb in a 24-hour period; and (4) optimize management of the fuel gas by limiting the short-term concentration of H<sub>2</sub>S to 162 ppmv during normal operating conditions. Additionally, refineries must install and operate monitors for measuring sulfur and flow at the inlet of all of their flares.



In light of this, SPPRC proposes that, rather than simply delete the process upset exemption at 7011.1415, MPCA consider one of the two following options:

**Option 1:** Delete the state new source standards for refinery flares in their entirety and incorporate NSPS Ja by reference. This could be accomplished by replacing the phrase “heaters, boilers, and flares” with “heaters and boilers, excluding flares” in the definition of fuel gas combustion device at 7011.1400 ; or

**Option 2:** Insert a new subpart at the front of 7011.1410:

Subp. 1. **Scope.** The standards of performance set forth herein shall not apply to any affected facility subject to the requirements of NSPS Subpart Ja (40 CFR Part 60, Subpart Ja).

Either of these options would be consistent with the EPA guidance noted above, would provide a consistent approach to address non-normal operating conditions for flares, and would avoid any conflict between state and federal requirements in this regard. As we discussed, SPPRC’s flare already is subject to NSPS Ja and the Ja provisions are in our Title V permit.

### **General SSM Conditions**

As part of the Omnibus Rule, MPCA has proposed to amend Minn. Rule 7007.0800 by adding Subp. 2. D. The apparent purpose of this proposal is to provide MPCA general authority to establish source-specific conditions in Title V permit to address reasonably anticipated non-normal operating conditions. We understand that that Minnesota Chamber of Commerce has or will comment on this provision. Consistent with those comments, we generally support this proposal by the MPCA, but also agree with the Chamber’s proposed modification. Thus, we propose to amend the new provision as follows:

D. contain provisions to ensure continuous compliance with applicable emissions ~~limitations-standards~~ during periods of ~~maintenance, startup and-or~~ shutdown of an emissions unit, such as ~~operating parameters or best practices to minimize emissions~~ establishing alternate case-by-case limits, operating practices, or work practices applicable during such periods.

### **Incorporation by Reference**

We believe the Omnibus Rule presents an opportunity to incorporate by reference any federal rules that have been recently adopted. For refiners, those are, at a minimum, NSPS Subparts Ja (as noted above), VVa, and GGGa.

We also note that the state new source standards which, we believe were intended to mirror NSPS Subpart J, do not reflect the most recent updates to Subpart J. One option to address this would be to simply reference Subpart J and delete the separate state standards. Another option would be to modify the state standards to reflect those updates, which, among other things, establishes a new definition of fuel gas. SPPRC can supply a markup of proposed changes if the agency wishes.

**Performance Test Methods**

In the performance test sections found at 7011.1425 and 7017.2060, SPPRC requests that other EPA approved test methods, Methods 5B and 5F, be expressly included as approved methods to utilize as appropriate.

Once again, we appreciate this opportunity to provide comments and are happy to discuss these proposals with MPCA at greater length.

Sincerely,

St. Paul Park Refining Co. LLC

A handwritten signature in black ink that reads "Kristin Heutmacher". The script is cursive and fluid, with the first name "Kristin" and last name "Heutmacher" clearly legible.

Kristin Heutmacher  
Environmental and Safety Manager

## Appendix 4: Completeness Review

### A. Administrative Materials (40 CFR pt. 51, Appendix V, Part 2.1)

The EPA's Criteria for Determining the Completeness of Plan Submittals, published at 40 CFR part 51, Appendix V, requires states to provide the basic documents that show that the State has properly followed the administrative requirements called for by the CAA for the adoption of SIPs. The requirements, and MPCA's description of how this SIP revision complies with these requirements, are included here:

#### 1) Formal Letter of Submittal:

"A formal letter of submittal from the Governor or his designee, requesting EPA approval of the plan or revision thereof."

Attached to this SIP revision request is a formal letter of submittal from the MPCA Commissioner, John Linc Stine, to the Acting EPA Region V Administrator, Robert A. Kaplan. The office of the Commissioner of the MPCA is statutorily created in Minnesota Statute § 116.03, subd. 1 (a). The Commissioner is appointed by the Governor, and the duties of the position include acting as the state agent to "apply for, receive, and disburse federal funds made available to the state by federal law or rule and regulations promulgated thereunder for any purpose related to the power and duties of the MPCA or the Commissioner. The Commissioner shall comply with any and all requirements of such federal law or such rules and regulations promulgated thereunder to facilitate application for, receipt, and disbursement of such funds." Minn. Stat. § 116.03 subd. 3.

#### 2) Evidence of State Adoption of Plan and Issuance of Orders in Final Form

"Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter 'document') in final form. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date."

The submittal letter and SIP document outline the rule to be repealed from the SIP pending EPA approval. Appendix 1 includes the final order adopting the Omnibus Air Rule amendments (which repeals of Minn. R. 7011.1415). The repeal is expected to be effective in December 2016.

#### 3) Legal Authority Documentation:

"Evidence that the State has the necessary legal authority under State law to adopt and implement the plan."

Minnesota's Infrastructure SIP submittal dated June 12, 2014 and approved in the *Federal Register* on October 20, 2015 and other previous SIP submittals document the MPCA's legal authority in addressing Section 110(a)(1) of the Clean Air Act.

#### 4) Compliance with State Procedures:

"Evidence that the state followed all of the procedural requirements of the State's laws and constitution in conducting and completing the adoption/issuance of the plan."

MPCA complied with all relevant state procedures for submitting this SIP revision, including a public notice period and the opportunity to request a hearing.

#### 5) Public Notice:

"Evidence that public notice was given of the proposed change consistent with the procedures approved by the EPA, including the date of the publication of the notice."

The public notice for the SIP revision was published in the Minnesota *State Register* and on the MPCA website on October 10, 2016 with the public comment period commencing on October 11, 2016 and ending on November 9, 2016. During the public comment period, a copy of the SIP revision was made available at the MPCA office located in St. Paul and on the MPCA's website (<https://www.pca.state.mn.us/public-notices>). A copy of the public notice can be found in Appendix 2. Two comments, which are addressed in Appendix 3, were received.

#### 6) Public Hearing Certification:

"Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable."

The public notice states: "A public information meeting on this proposed SIP revision will only be held if one is requested by 4:00 p.m. on November 9, 2016. If such a meeting is requested, it will be held on November 10, 2016 from 1:00 p.m. to 3:00 p.m. at the MPCA St. Paul Office, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194. To find out if a public information meeting will be held, please contact Melissa Andersen Kuskie at 651-757-2512 or [melissa.kuskie@state.mn.us](mailto:melissa.kuskie@state.mn.us) after 4:00 p.m. on November 9, 2016. The public information meeting, if one is requested, will provide information, receive public input, and answer questions about the proposed SIP revision."

No public meeting was requested.

#### 7) Public Comments and State Response:

"Compilation of the public comments and State's response thereto."

The MPCA received two comment letters on during the public comment period, one from St. Paul Park Refining Co., and one from the Sierra Club. Those letters, as well as responses to the comments included, are provided in Appendix 3.

#### B. Technical Support:

##### 1) Pollutants Regulated:

"Identification of all regulated pollutants affect by the plan."

This SSM SIP revision applies to all NAAQS.

##### 2) Source Identification

"Identification of the locations of affected sources including the EPA attainment/nonattainment designation of the locations and the state of the Attainment Plan for the affected area(s)."

Does not apply to this SIP submittal.

##### 3) Emissions Quantification:

"Quantification of the changes in the plan; allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of the changes in actual emissions through

calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.”

Does not apply to this SIP submittal.

#### 4) NAAQS Protections:

“The State’s demonstration that the NAAQS, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented.”

The purpose of this SIP submittal is to address a SIP deficiency regarding Minnesota’s ability to comply with sections 110(a)(2)(A) and 302(k) of the CAA, which require continuous enforceable emission limitations as may be necessary or appropriate to meet applicable requirements of the CAA. The correction of this deficiency will better ensure Minnesota’s ability to implement, maintain, and enforce the NAAQS.

#### 5) Modeling Information

“Modeling information required to support the proposed revision, including input data, output data, models used, justification of the model selections, ambient monitoring data used, meteorological data used, justification for use of off-site data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.”

Does not apply to this SIP submittal.

#### 6) Continuous Emission Reduction

“Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.”

The purpose of this SIP submittal is to address a SIP deficiency regarding Minnesota’s ability to comply with sections 110(a)(2)(A) and 302(k) of the CAA, which require continuous enforceable emission limitations as may be necessary or appropriate to meet applicable requirements of the CAA. The correction of this deficiency will ensure that emissions limitations in Minnesota’s SIP are appropriately continuous.

#### 7) Emission Level Assurance

“Evidence that the plan contains emission limitations, work practice standards and recordkeeping/requirements, where necessary, to ensure emissions levels.”

The purpose of this SIP submittal is to address a SIP deficiency regarding Minnesota’s ability to comply with sections 110(a)(2)(A) and 302(k) of the CAA, which require continuous enforceable emission limitations as may be necessary or appropriate to meet applicable requirements of the CAA. The correction of this deficiency will ensure that emissions limitations in Minnesota’s SIP are appropriately continuous.

#### 8) Compliance/Enforcement

“Compliance and enforcement strategies, including how compliance will be determined in practice.”

Does not apply to this SIP submittal.

9) Special Economic and Technological Justifications:

“Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.”

Does not apply to this SIP submittal.